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WASHINGTON, D.C. 20463

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WILLEAM A. CHOBY, D.M.D., M.P.A.

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MUR 4/88 FEB 21 1 07 PM '95

December 10, 1994

Retha Dixon
Docket Chief
Federal Election Commission
Washington, D. C. 20463

SENSITIVE

Dear Retha,

I have recently encountered several printed articles that I believe could represent in-kind contributions by candidate-friendly news corporations. It is my understanding that a "contribution is anything of value given to influence a federal election, 100.7 (a)(1)." Furthermore, I understand that corporations are prohibited from making any contributions in connection with federal elections. Please evaluate the following complaints regarding this matter. Thank-you.

Sincerely

Willeam A Choby DMD
1905 Bates Drive
Johnstown, Pa 15905
814-255-3866

RECEIVED
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COMMISSION
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MAR 1 3 33 PM '95

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WILLEAM A. SHOBY, D.M.D., M.P.A.

RECEIVED
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OFFICE OF GENERAL
COUNSEL

MUR 4188

FEB 21 1 07 PM '95

A complaint against Central Pennsylvania Medicine, published by Ankney Publishing Inc., of 2 Jefferson Street, Johnstown, Pennsylvania 15905 and/or Operation Assistance Inc., 325 Stoneycreek Street, Boswell, Pa. 15521.

I believe that the excessively large photograph of incumbent Congressman and candidate for re-election John P. Murtha on page 14 of the July issue of Central Pennsylvania Medicine (exhibit 1) that was included in a promotional "news" story for a private company while lacking public significance represented either a business promotion by Murtha or an undisclosed advertisement for Murtha by either one of these private corporations.

Since private corporations are prohibited from contributing "anything of value given to influence a federal election", FEC regulations 100.7 (a) (1). what was the purpose of placing Murtha's picture in this newspaper?

The "news" story theory would be consistent with the policy of Ankney Publishing Inc. to write promotional "news" about a business in exchange for the purchasing of advertising from Ankney Publishing Inc.. This "news for money" policy fits a well-established pattern of promotion for Ankney Publishing Inc. as demonstrated in the advertisement in the bottom half of the same page. The ad is for the same company described in the "news" article at the top of the same page. Further evidence is available in the contract with Health Market Associates (exhibit 2) where Mr. Ankney's own handwriting states; "2 news stories with next year. Guaranteed!". Another example is found with the "Lifestyles" story/advertisement on page 16, of the January 1995 issue. (exhibit 3). In addition, Dennis Calnan CPA (814-255-7242), of CAMCO physical therapy was approached by Mr. Raymond Ankney with the same "news for money" proposition. Not suprisingly, after refusing the offer, CAMCO physical therapy did not receive any "news" in the Physical Therapy supplement of the January 1995 issue. Lastly, the back page of the January 1995 issue (exhibit 4) of Ankney Publishing Inc.'s paper offers promotional "Editorial services and newsletters" as an image enhancement service of part of Ankney Public Relations.

The point being that Mr. Ankney sold "news for money" as a policy for Ankney Publishing Inc.

In light of Ankney Publishing Inc.'s pattern of public image enhancement via the free distribution of its publication, Central Pennsylvania Medicine or more recently Western Pennsylvania Medicine, to the 3,500 health care providers in the general region which encompasses the same

96043724707



WILLEAM A. CHOBY, D.M.D., M.P.A.

general geographic area of the 12th Congressional District, I believe that the excessively large, non-newsworthy photograph of federal candidate Murtha should be investigated by the Federal Election Commission as an "in-kind" corporate contribution.

It is clear that the excessively large photograph of Murtha represented something to somebody since other such articles in Ankney's newspaper generally featured the photograph of the businessman being promoted therein. *Exhibit 5* Furthermore, the article did not address any official public news substance that could justify the presence of a public official's photograph.

May I suggest one of the following explanations for Murtha's photograph in a private article within a public news media?

- #1. It was a subtle promotion of Murtha by Ankney Publishing Inc..
- #2. It was Congressman Murtha's endorsement of a private corporation while he was a candidate for re-election.
- #3. It was a corporate endorsement by Operation Assistance Inc. for Murtha.

It is also noteworthy that the political advertisements placed by this writer in the very same publication were required to contain the disclaimer "paid for by the Choby '94 committee" (exhibit 5 on page 23, July 1994 issue).

I submit this complaint along with the enclosed supporting documentation that represents, to the best of my knowledge, a true and accurate account of the incident in question.

Willeam A. Choby

Willeam A Choby DMD MPA
1905 Bates Drive
Johnstown, Pennsylvania. 15905
814-255-3866

Signed and sworn to before me

Anita A. Burkett 2/16/95

NOTARIAL SEAL
ANITA A. BURKETT, Notary Public
Derry Borough, Westmoreland County
My Commission Expires Nov. 16, 1996

Member, Pennsylvania Association of Notaries

96043724708

Operation Assistance Provides Advanced Life Safety Services

A Boswell, Pennsylvania company, Operation Assistance Inc., offers the most comprehensive life safety services in the United States, an official report.

Newell Smith, president of Operation Assistance, says customers receive complete medical emergency, fire, and security services. Operation Assistance provides customers with control panels, keypads, two-way voice communications, motion detectors, smoke detectors, and medical panic buttons.

"When any of these devices are activated by customers, smoke, or an intruder," he says, "the alarm transmits a signal via telephone to our central station in Boswell. Inside of the computer is programmed all of the pertinent information about the member's house. If it's a medical emergency, we have complete histories for all occupants, including family doctors, hospitals, medications, blood types, and allergies. We can transmit this information directly to the rescue squad en route."

Operation Assistance also works with customers on fire evacuation plans. The two-way voice system allows dispatchers to remind occupants of the plan during a fire.

"At 2 o'clock in the morning," Smith relates, "if your smoke detector went off, our dispatcher would read the fire evacuation plan and remind you of what you're supposed to do and where you are supposed to meet outside."

Smith adds that the two-way voice system allows dispatcher to tell responding police officers of "exactly what's happening on the other side." Operation Assistance is the only company in Pennsylvania to offer this life-saving service.

"If it's a duress situation," Smith continues, "we tell our customers to enter an alternate code into the keypad. Our operators don't say anything, but they listen. Everything that happens is tape recorded and is admissible into court. If a suspect is apprehended, his voice can be matched to our recording and this information can be used as evidence."

Smith notes that Operation Assistance has the lowest fees for any life safety company in the country. Operation Assistance provides the equipment for no money down and a monthly payment of \$25.

"I don't think there is anybody in the nation who can compete with our product," he advises. "I know of all the other alarm companies in the area and none of them can even get close to our price."

The company's goal, Smith continues, is to make life safety services available to the majority of Americans. In the past high instal-



Murtha: Company helps disabled.

lation fees prevented working-class families from purchasing the protection.

"We have insisted that the price of our services be lower than a person's monthly cable bill," Smith says. "Most cable bills are \$35 a month. If you are willing to pay \$35 a month to watch television and own nothing,

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325 STONEYCREEK STREET, BOSWELL, PA 15521

then wouldn't you pay \$23 to protect your home, your family, and all of your irreplaceable possessions?"

Smith notes that Operation Assistance plans to open new offices throughout the northeast United States. An Altoona office opened in July, and 20 branch offices are planned, including sites in Baltimore and Philadelphia.

"We estimate that in six months," he says, "we'll be adding 2,000 to 3,000 new members per month."

Moreover Operation Assistance has made a commitment to hiring disabled Americans for the dispatch station.

"That is one of the best programs we have," says Brenda Smith, executive director of Operation Assistance. "Our employees are excellent. For each 5,000 customers who join the system, we'll put another dispatcher on duty. Eventually we'll have 27 dispatchers and they'll all be physically challenged."

Representative John Murtha, Pennsylvania Democrat, praises Operation Assistance for its commitment to the disabled. "What I like about this," he says, "is not only do you provide security, but you also provide jobs for handicapped people. That's good to hear."

Newell Smith adds that the company offers free seminars to neighborhood watch programs, church groups, and senior citizens clubs. Anyone interested can call 800-335-3279.

Drifter's Hospital Case Spurs Euthanasia Battle

By Sally Johnson

Ronald Comeau was in a "persistent vegetative state," according to the Southwestern Vermont Medical Center, when the decision was made to withdraw the feeding and water tubes that were keeping him alive.

To most people those words conjured a patient lying still, eyes closed, dead but for his breathing. But that was before videotapes of the emaciated Mr. Comeau were aired on the evening news in late November. The video clearly showed Mr. Comeau in his hospital bed with wide-open eyes, pointing, grimacing, and hugging a stuffed animal. At times he appeared to be laughing, at other times to be silently screaming. In short Mr. Comeau seemed very much alive.

"I was amazed," says one Vermont woman who saw the tape. "That's not at all what I expected to see. I had to wonder what they were doing down there at that hospital."

So did Mr. Comeau's family. Alerted by a story about Mr. Comeau in their hometown newspaper, his brothers hastened to Bennington to see if the patient was indeed the sibling they hadn't seen in many years.

"I was expecting to see a tomato with a bunch of tubes coming out of him," says Ronald Comeau, Ronald's older brother. "When we walked in the room, he opened his eyes, smiled, cried, shook hands with every-

one. We were elated. And then we began to wonder what was going on."

The story of how Mr. Comeau almost came to die is seen as a cautionary tale by the right-to-life proponents who intervened in his case, setting in motion a court case—still unresolved—that went to the Vermont Supreme Court.

They say it is a tale of things to come in a resource-conscious society in which costs will outweigh compassion in medical decisions. As a result they have asked the Vermont Legislature to pass laws that would ensure that such a case never happens again.

"We want to make it difficult, if not impossible, for the government to practice involuntary euthanasia," says Mike McHugh, a fundamentalist pastor who stepped in to stop the process.

But the hospital staff and the man, Joseph Schaaf, who made the decision to pull the tubes, say their actions were motivated solely by compassion for Mr. Comeau and that their decision was correct in the context in which it was made. "I tried to do for that man what I would do for my son or my brother or even myself," says Mr. Schaaf. Mr. Comeau's court-appointed guardian, "I am 66 years old, and I wouldn't want to live like that. He seemed without hope of any substantial recovery. It seemed better to let him die."

Common practice

To anti-euthanasia activists Mr. Comeau's story is an unusually visible example of a common practice in hospitals and nursing homes.

"The removal of food and fluids from nonliving patients happens every day," says Rita Marker, director of the International Anti-Euthanasia Task Force. "Over the last 10 years, there has been a redefinition of food and fluids provided through a tube as medical treatment. Therefore when you withdraw medical treatment from a nonrecovering patient, you remove the feeding tube. What's unusual about this situation is that someone brought it to the public's attention and as a result, Mr. Comeau is still alive."

But Arthur Caplan, director of the Center for Biomedical Ethics at the University of Minnesota, says the notion of food and fluids as medical treatment is well-established and has been reaffirmed again and again by courts, including the U.S. Supreme Court in the Nancy Cruzan case.

"What's hard in this case," says Mr. Caplan, "has nothing to do with food and water. What's hard is for a guardian, who knows little or nothing about the person, to assemble as much information as he can about the person's life, then try to guess what the person might have wanted. But there is almost always court oversight in these cases, and I believe that sufficient and appropriate legal safeguards already exist—that the ones

Please turn to Page 16

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A newspaper for health care professionals

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REPRESENTATIVE'S NAME AND TITLE

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Health-Care Reform: A Provider's Point of View

By Dr. Bill Choby

Lately, the private health-care system has come into focus as being in need of repair. The media points to the private sector's inability to deal with patient access and rising costs. The public sector, some media members claim, must defend the oppressed public from greedy, rich doctors.

Dr. Bill Choby is president of Health Market Associates and a candidate for the republican nomination for the 12th Congressional District.

The politicians seized the opportunity to offer reform in exchange for power, taxes, and re-election.

Although the health-care system consumes \$900 billion per year or nearly 14% of the Gross National Product (GNP), the costs do not necessitate a total government take over. It is true that Americans spend a greater portion of their income on health care than other countries, but it is because Americans want it.

Who is to say that there is anything wrong with Americans spending their money on health care instead of something else?

Here are the facts as provided by Empower America, a conservative policy think tank whose ranks include former drug "czar" William Bennett, former secretary of Housing and Urban Development, Jack Kemp, and Representative Newt Gingrich, Georgia Republican.

1. One percent of Americans account for 43 percent of health-care costs, while 10 percent of Americans consume 70 percent of the total.

2. Eighty-five percent of Americans are covered by health insurance.

3. Seventy-one percent of Americans are covered by private insurance offered by employers as a tax-exempt benefit.

4. Medicare and Medicaid provide services for 14 percent of Americans.

5. Fifteen percent, or 36 million Americans, lack health insurance. However, 50 percent are reinsured within 4 months. Only 2 percent of Americans lack health insurance for more than two years.

6. No one can be denied access to critical care in hospitals that receive federal money.

Does the United States have a health-care crisis? No. But the uninsured have a real dilemma. The solution should begin with tax-exempt dollars. If the cost of insurance is excessive, people should be allowed to buy into the Medicaid program.

The unemployed should be able to buy into their employers' plan until they are enrolled into another one. The issue of insurers canceling coverage because of "preexisting



Choby: Most Americans covered by insurance.

conditions" could be solved by penalizing insurance companies for abandoning patients.

Where is the health-care problem that politicians are harping about?

The real issue is that insurance costs keep rising faster than the cost of living. Some of the factors that increase insurance costs are:

1. The cost of administering insurance plans approaches 12 percent of the premiums. These costs could be reduced by electronic billing via computers, a private sector solution.

2. Overutilization of benefits. The emergency room is for emergencies, not convenience.

Employers should seek to provide only catastrophic health-care insurance for their employees. Noncatastrophic care should be tax-deductible. Employers could further save on their costs by encouraging informed patient-consumer decisions.

3. The threat of malpractice lawsuits means practicing defensive medicine. The solution is tort reform.

4. A penny for prevention is better than thousands for a cure. Why don't the insurance plans pay for prevention? Perhaps because it could lead to lower premiums.

5. Deregulate the doctors. The cost of licensure requirements and regulations are eventually passed on to patients and insurers.

6. Reduce the liability costs for research and development on new technology and pharmaceuticals. In today's high-risk market,

companies require higher introductory prices to shield against future liability claims. The Food and Drug Administration should take notice.

The politically correct solutions proposed by liberal politicians include raising so-called sin taxes on unhealthy behaviors, such as smoking and drinking.

While these measures will discourage some from smoking and drinking, it makes about as much sense as placing a tax on condoms to pay for AIDS.

If the government cannot figure out a way to tax us into control, it may try to sneak in through the back door by mandates. The play or pay mandate could force private employers to buy into the government's version of insurance.

When none of the above are politically acceptable, expect to see a proposal that would use voluntary taxation, (i.e. a national lottery) to pay for health care.

The political spin doctors who say Americans need a government-run health-care system could not have the country's best interests in mind. Americans should consider the success of government-run housing before giving up the best health-care system in the world.

SAFE KIDS Coalition

The Blair County SAFE KIDS Coalition will sponsor a Bike Safety Day/Rodeo on May 14 at the Station Mall in Altoona. The rodeo caps the coalition's in-school educational program on bicycle safety.

The maternal child nursing staff of Altoona Hospital established the Blair County SAFE KIDS Coalition this winter. Overall, SAFE KIDS has formed 140 state and local coalitions, including 10 chapters in Pennsylvania.

"Our common objective," says Sherri McDonald, coordinator of the coalition, "is to provide safer communities for children. Through education, enforcement, engineering, and evaluation, we hope to prevent injury from traffic accidents, fires and burns, drowning, choking and poisoning, and falls."

"With the assistance of other area businesses and service organizations, the Blair County SAFE KIDS Coalition hopes to become known as the single best source of childhood injury prevention information and action in the county."

Altoona Hospital offers office space, clerical support and financial accounting to the coalition. The Blair County SAFE KIDS Coalition seeks grants to defray costs from special events and programs. For example, the Pennsylvania Department of Health funded part of the bicycle educational project.

JEDCO Provides Wide Range of Services

In 1988 JEDCO was founded and began contracting therapy services to nursing homes throughout Western Pennsylvania. As JEDCO continued to grow our operations have become more diversified and in 1995 JEDCO has divided its operations into their own entities.

JEDCO Health Services, the administrative body has divided into 3 divisions.

- **Lifestyles Orthopedic and Sports Rehabilitation.** This division is for outpatient services to include physical therapy, occupational therapy, and industrial rehabilitation.

- **JEDCO Rehabilitation Services.** This division is for contracting our physical therapy, occupational therapy, and speech language pathology services to nursing facilities, home-health agencies, and hospitals.

- **JEDCO Rehabilitation Agency.** This division is the Medicare-certified body that directly bills Medicare for rehabilitation services.

Our administrative offices are currently located at 927 West High Street, Ebensburg, where our first outpatient clinic opened in 1993. Due to the good acceptance in 1994 JEDCO moved its outpatient clinic to a health

club in the Cambria County Industrial Park, Ebensburg offering programs such as sports injuries, orthopaedic disorders, arthritic cases, work injuries, back strains, hand rehabilitation, joint replacement and functional capacity evaluations. These programs are not limited. Lifestyles has state-of-the-art equipment and our therapists work one-on-one with our clients offering them the best therapeutic care.

As Lifestyles continues to grow, we will be able to provide community programs, sports medicine clinics and athletic testing. Lifestyles accepts and processes most insurances. Physical and Occupational Therapy is available Monday-Friday.

In 1995 JEDCO Health Services will be opening an outpatient clinic in Johnstown also to be named Lifestyles Orthopedic and Sports Rehabilitation.

Lifestyles

Orthopedic and Sports Rehabilitation

A Division of JEDCO Health Services

Exhibit 3

Lifestyles

*Orthopedic and Sports Rehabilitation
A Division of JEDCO Health Services*

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* Modern Healthcare: June 20, 1994

Western PA Medicine

Vol. 2, No. 9

A newspaper for health-care professionals

October 1994

HRSA Examines Reimbursement For Rural Health-Care System

Dr. Ciro V. Sumaya heads the Health Resources and Services Administration (HRSA), an agency within the Public Health Service charged with helping states develop and deliver primary health-care services to rural residents.

It provides funding for community health centers, migrant health clinics, and other groups with special health-care needs. HRSA also manages the National Health Service Corps, which provides funding for educating and training doctors, nurses, dentists, and other health-care workers.

Since Congress is unable to agree on health-care reform, what's next for HRSA?

I think that what's next is really an extension of what has been happening. We are moving vigorously to try to pass a number of the reforms that President Clinton's Administration supported earlier. So we're not waver- ing. We are not decreasing the effort. There

are a lot of negotiations that are ongoing and we are looking optimistically at incorporating many of the features that the President wanted in the health-reform bill into whatever emerges from the Congress when they return.

Can you cite examples?

One would be the reimbursement issue. We're looking for a more sensible way to reimburse health-care delivery. We're [also] looking for a managed-care approach to health care that is a more appropriate and efficient way of having health care delivered. We're bringing preventive health to the forefront and looking at health care not as something when we get sick but proactively trying to improve our health and prevent illness, and, if we do happen to get ill, to intervene as soon as possible. So we're bringing in that core public-health concept. This is something that really has had very little attention paid to it in the

Please turn to Page 10



Local pediatrician participates in a humanitarian mission in Africa. See story on Page 3.



Arnold Palmer and Jack Nicklaus, welcome at any course in the world, recently played in the Go! Golf Stars Game at Latrobe Country Club. The event raised \$1 million in its first two years.

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Sudden Infant Deaths

A coalition of Federal and private agencies has launched a national education campaign to persuade parents to put healthy babies on their back or side to sleep to help reduce the risk of Sudden Infant Death Syndrome (SIDS). Nearly 6,000 U.S. infants, more than 1 in 1,000 live births, die of SIDS each year, making it the leading cause of death among infants one month to one year of age. The primary message of the "Back to Sleep" campaign is that healthy babies should be placed on their back or side to sleep. This includes nap times as well as nightly sleep.

New Zealand, Australia, Norway, and the Netherlands, all had decreases of 50 percent or more in the incidences of SIDS since recommending back or side sleeping infants. Since 1992 experts have surveyed international data and reviewed preliminary data on SIDS and sleep position in the United States, and no adverse side effects from back or side sleeping have been found. For more information about the "Back to Sleep" campaign, call free of charge, 1-800-505-CRIB.

Red Cross Implements Screening System

Local residents who donate blood at American Red Cross bloodmobiles will do more than give the gift of life, they'll take a trip on the electronic information superhighway.

And they won't have to pack a suitcase, just give their Social Security number at the health history station.

It's all part of Pre-Check, a new computerized predonation screening procedure introduced by all American Red Cross Blood Services regions recently to reinforce donor screening steps to provide patients with the safest possible blood supply.

Thomas S. Angle, principal officer of the Red Cross Blood Services in Johnstown, Pa., explains Pre-Check uses a hand-held computer system to screen prospective donors' Social Security numbers to identify possible donors who are deferred for health reasons as well as those who have not waited the required 56 days since their last donation.

"Pre-Check does not take the place of the required health history screening, but by screening out at the bloodmobile donors who through record checks done later at the regional blood center would be found to have been ineligible to donate, Pre-Check will help prevent the collection of unusable blood, and thus enhance the safety of the blood supply, and protect the personal health of our donors," Angle says.

He adds that by preventing the collection of unusable blood, the Red Cross will save resources and contain costs. "We consistently offer among the lowest red blood cell product processing fees throughout the 45-region Red Cross Blood Services," says Angle, "and maintain the lowest total cost per unit of blood collected."

Pilot studies indicate Pre-Check may add a minute's time to the blood donation process, which takes about 75 minutes.

"Pre-Check was enthusiastically approved by the vast majority of donors who participated in the pilot studies, and has also been received favorably by the U.S. Food and Drug Administration, which provides regulatory oversight to our nation's blood banks," Angle notes.

"Donors of all types, especially those with types O positive and O negative, which are in particularly great demand, are needed to donate on a regular basis."

He also reminds prospective blood donors to provide their Red Cross blood donor card, or some other form of positive identification, when they come to donate blood in order to reduce the potential for duplication of or discrepancies in donors' records, and thus help to further ensure blood product safety.



Angle: System improves safety of blood supply.

Forms of acceptable identification include driver's license, employment or school identification, voter's registration card, and many other forms of identification that include a Social Security number or birth date.

The Johnstown Region of Red Cross Blood Services serves hospitals, Red Cross chapters, and blood donors in 61 counties in Maryland, Ohio, Pennsylvania, Virginia, and West Virginia, from service locations in Beaver, Pa.; Johnstown, Pa.; Morgantown, W. Va.; and Winchester, Va.

ANA Receives \$200,000 Grant

The American Nurses Association (ANA) was awarded a \$200,000 grant to evaluate a health promotion program called *Put Prevention Into Practice* (PPIP).

PPIP is a prevention implementation program to help achieve the nation's disease prevention objectives established by the Department of Health and Human Services.

ANA is developing an education program and videotape to encourage nurses to become information experts and consultants on prevention.

Educational materials have been designed by the Office of Disease Prevention and Health Promotion as "PPIP kits" to promote preventive services such as immunizations, screening, and counseling in clinical practice.

g System



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Identification include
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Ails, Red Cross chapters,
counties in Maryland,
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Reives
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Nurses Association
a \$200,000 grant to
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Doctor Completes
Humanitarian Mission
At Kenyan Hospital

By Jennifer Gannon
Staff Writer

Pediatrician Beth Butler recently returned from a month-long mission to Kenya, Africa. Butler's mission was arranged by the World Medical Mission Inc., which is part of the Billy Graham Association in North Carolina.

It was her second opportunity to serve in Africa. A decade ago, while attending Hershey Medical School, Butler spent two months at a mission hospital in Africa. Butler was on an Army scholarship, so when she finished medical school, she joined the service. But she always hoped to return someday to Africa.

Butler went on active duty for the Army and completed her pediatric residency and then was stationed in Bremerhaven, Germany, where she served for three years as the head of pediatrics. When she finished active duty in 1992, Butler came to Johnstown Pediatrics, where she works today.

This year Butler went to Kenya to work as a volunteer pediatrician at Tenwek Hospital. This hospital was established by the World Gospel mission based in the United States. Her trip was arranged by the World Medical Mission (WMM), which helps establish mission hospitals all over the world. Butler adds the WMM "helps interested doctors get assigned to mission hospitals."

The World Medical Mission sends physicians to between 50 and 100 facilities all over the world. Butler chose Africa because she knew she would feel comfortable there. Although she traveled alone to Kenya, Butler became friends with other physicians and



Dr. Beth Butler provides care to an infant in Kenya during her stay at Tenwek Hospital.

medical student volunteers already at Tenwek.

At Tenwek Hospital Butler served as a pediatrician for inpatients. Butler worked in a 56-bed ward contained in three main rooms, a small intensive care unit for patients, and two private rooms. "I saw anywhere from 70 to 100 pediatric patients a day, which meant that there were often two children per bed, and it was a single bed," Butler adds that each child could have one parent with them, so many times there might be four people in one single bed.

The main illness treated at the bustling hospital was malaria, a type resistant to chloroquine. This was a big problem, Butler says, because chloroquine is the most easily obtained medicine for treating malaria. Other malaria medicines are more expensive and harder to get. Butler says she was told that

malaria claimed more lives in two months at Tenwek than the total deaths at any hospital in the United States in a year. "Sometimes the children would come in already comatose, it was really hard," says Butler.

On her first day at Tenwek, a 10-year-old girl with malaria was admitted, but she died overnight. Such tragedies eventually took a toll on the physicians. Butler says, "Sometimes you beat yourself over the head for the one child you could not save and forget the hundreds you do." After she left Tenwek, there were 139 children in the pediatric ward, and most had malaria.

Butler's job, however, was very rewarding because there were many children who were saved. One little girl named Cherol entered the hospital with malaria and Blackwater Fe-

Please turn to Page 5



Terrina Everhart prepares to race at Hession, a stop on the powder puff racing circuit.

Life in the Faster Lane:
Medical Records Clerk
Joins Racing Circuit

Medical records file clerk Terrina Everhart's brief auto racing hobby has been a story of "cigar but no cigar." The Mercy Regional Health System employee wants that cigar.

Terrina, 28, who lives in Canoe Creek with her husband Steve and two children, raced for the first time four years ago in a drag strip car owned by her husband and his brothers. She finished third among the 50 women in the "powder puff" Mother's Day event at Beaver Springs, near Lewistown, and has since taken a second place in street-stock racing.

Her finishes—and her gumption—are all the more impressive when you consider that there was no such thing as practice. She got into the car, put the pedal to the metal, and was backed

Please turn to Page 6

Medical Records Clerk Joins Racing Circuit

Continued from Page 3

"It's fun. I live it. I wish they had powder puffs every weekend," she says. "It's thrilling, especially (in street stock) when you're passing the other cars. I was like, 'Wow, that's great!'"

A race scheduled for August was rained out, so Terina will have to baffle her enthusiasm and her quest for the checkered flag until October. Her second-place finish came in July in her first street-stock competition. The result was tantalizing.

"There were eight laps and I led for seven and three-quarters," she says, "and on the

fourth turn I got really excited and went to give it the gas and started fishtailing. I had to let up and she zipped out around me. I wasn't happy."

She never saw the threat because, among other safety precautions, street-stock cars have no rearview mirrors. All have roll cages, screened windshields (no glass), faster motors and bigger tires, with seatbelts that hook over the shoulders, across the lap, and through the legs. The dashboard is clean and simple, with only a tachometer and gauges for oil pressure and water temperature.

There is no speedometer, which already has led to a mild controversy.

"I got out of the car (after the race in July) and I said to my husband, 'We were going fast, weren't we?' And he said, 'No, you weren't going that fast.' They said we were only going 40 but it seemed like we were going faster."

Inside the car many things must seem surreal. It's like being strapped into an Apollo capsule in an astronaut's gear—helmet and fireproof suit and gloves. You hear nothing but engine roar. And you have only one thing on your mind.

"As soon as I get into the car, all thoughts go to winning," she says. "Just hit the pedal and shift."

Reprinted with permission of Focus, the newsletter of Mercy Regional Health System.

TB Is No Problem In Area Nursing Homes

Tuberculosis is not a problem in area homes, officials say, although a recent report in *American Family Physician* states that nationally nursing-home residents are more susceptible to contracting tuberculosis than elderly living at home. This is attributed to long-term contact with others, the reservoir of old infection in residents, slow diagnosis, and staff who come from other countries that have a high number of cases. In fact almost two-thirds of the increase of TB cases in the past 10 years is among foreign-born individuals now living in this country.

Despite the likelihood of elderly persons contracting tuberculosis, area nursing homes have no cases to report at their facilities.

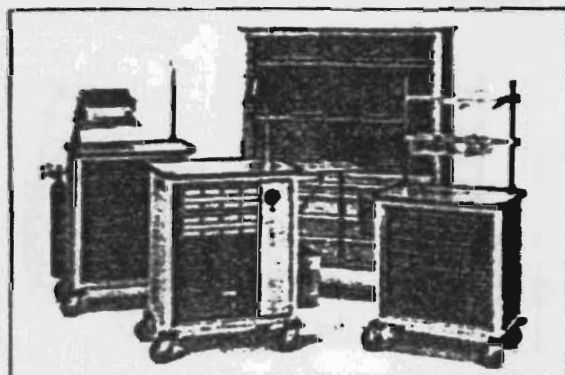
Virginia Claar, an administrator at the Lutheran Home in Johnstown, says the state regulations that govern nursing homes include a complete blood count, urinalysis, as well as chest X-ray before admission and all residents at the Lutheran Home receive yearly chest X-rays by nursing-home officials. She adds that any individual who tests positive for tuberculosis must be treated before gaining admission.

The Church of the Brethren Home in Windber also does not have any cases of TB. According to Edie Scaletta, each prospective resident goes through a series of tests, including chest X-rays, before being admitted into the nursing home. After an individual is accepted into the nursing home, there is no further testing. Scaletta says in the future, the Occupational Safety and Health Administration will probably mandate regulations on this issue, but the Church of the Brethren Home annually tests its employees so no diseases can be passed to others. She adds that for now, the way nursing homes deal with TB varies from facility to facility.

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Doctor Completes Humanitarian Mission At Kenyan Hospital

Continued from Page 3

ver, which causes kidney failure. Cherop was
ormitose, but you could tell she was in pain
because of her recurring groans. Cherop was
soon moved to the Intensive Care Unit, and
Butler kept her in her prayers. One week later
Cherop was awake, eating, and walking. Ten
days later Cherop was well enough to go home.
This was "a miracle," says Butler, because the
girl had been at death's door just a few days
before. Another child, a boy named Kipkorir,
came to the hospital with a ruptured appendix.

Kipkorir's condition was so bad his illness
would have been considered critical even in
the United States. Surgery was performed on
the boy, and he developed a high fever that
Butler treated with antibiotics. Kipkorir made
considerable progress and by the time she left
Kenya he was already eating.

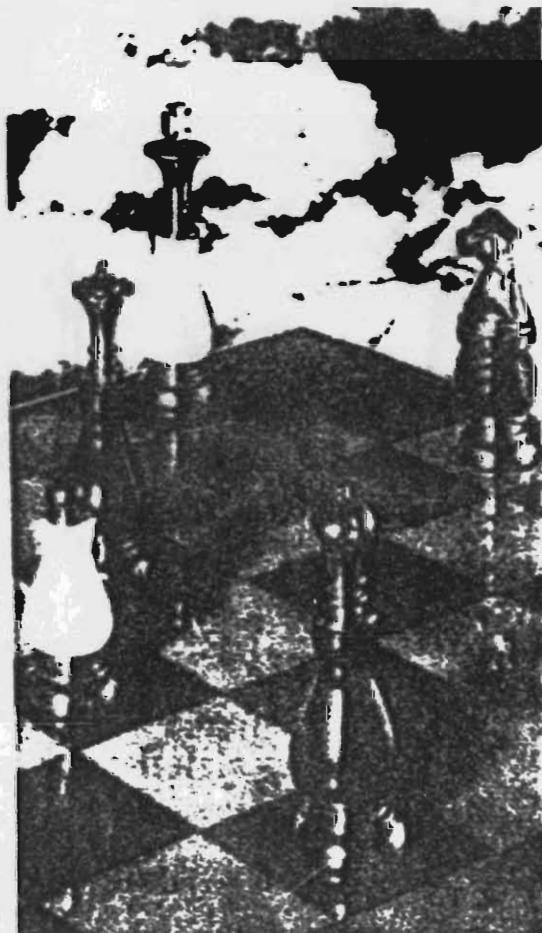
Butler often brought the children balloons
and trinkets to cheer them up. The children
grinned and clapped when they saw her com-
ing loaded down with presents.

Butler hopes to do similar volunteer work
in the future. She also encourages other phy-
sicians to go as well. "Many people who might
be interested," she says, "don't know how to
go about it." There are a few requirements
each physician must meet before going on a
Christian mission, but Butler says she would

be happy to talk to anyone interested in going
on the program, or anyone who just wants to
hear about her experiences. Butler admits it
was hard work, but it was richly rewarding:
"You really can make a difference."

Butler encourages physicians to collect
unused medical supplies that have possibly
been opened but cannot be used in the United
States because of strict laws. As long as the
package has just been opened and nothing has
been used, the supplies can be used in mission
hospitals. These supplies can be sent either to
Butler or directly to the World Medical Mis-
sion warehouse. The address for the ware-
house is: World Medical Mission Inc., P.O.
Box 3000, Boone, NC 28607, tel. (704) 262-
1900. Butler can be reached by voice mail at
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Senator Arlen Specter

Frick Hospital and Community Health Center Celebrates 90th Anniversary

The Frick Hospital and Community Health Center is celebrating its 90th year of meeting the special needs of the communities it serves.

Arlene Assey has been at Frick Hospital since June 1, 1954. She has been at Frick longer than anyone else at the hospital. Assey began her employment at Frick as an administrative secretary and moved through the years to her present job as director of Medical Affairs/Clinical Services.

Assey says that when she first began working at Frick, it was much smaller. There were only 65 beds in the hospital, which provided limited services. Assey says the greatest enhancement the hospital has made since she first started working there has been the growth and expansion that has been made through the years.

According to Jeanne Toohy, coordinator of public relations at Frick, "The hospital has a fascinating history." The nonprofit organization, which officially opened on January 21, 1904 as Mount Pleasant Memorial Hospital, started from a \$76,000 gift from Jacob Justice.

The money was used to fund and operate a free hospital service in Mount Pleasant. Such a unit was necessary because of rising need for emergency medical services.

Toohy says a hospital was needed because at the time, people who were sick had to be treated in their own homes. This became a cause for public concern, as did an increase in mining accidents and an influx of immigrants in the area.

Another key contributor was Henry Clay Frick, a Pittsburgh industrialist, who donated \$2,900 for equipment that was imperative for the operation of the hospital. The Red Cross Society, or the Hospital Aid Society, provided volunteers to work at the new hospital. Even today the generosity of



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Indiana Hospital Opens Sleep Disorder Lab

As many as half of all Americans suffer each night from a condition which often remains undiagnosed and neglected.

Another 30 to 40 percent of Americans suffer from sleep apnea, a condition that leaves sufferers tired after a poor night's sleep disrupted by snoring. This too can be treated.

"We spend about one-third of our lives sleeping yet we don't take sleeping problems seriously," says Dr. Robert Bagdoff, medical director of Indiana Hospital's Neurodiagnostic Center and the hospital's Sleep Disorder Laboratory, which opened last month.

"The effects of untreated sleep disorders can be dangerous for the patients and society. Serious accidents occur every day because someone's too tired from a bad night's sleep to concentrate on driving or operating equipment," Bagdoff says. "Insomnia and sleep apnea are by far the most common sleep disorders and, most often, they go untreated."

Indiana Hospital's Sleep Disorder Laboratory, located in the neurodiagnostic Center, can diagnose and treat these and other sleep disorders through various methods, including changes in sleep habits and sleep therapy.

"Because insomnia is often a stress-related problem, a change in sleep habits can usually



Bagdoff Lab offers advanced care.

improve a patient's quality of sleep," Bagdoff says. "Reassurance and developing regular sleeping patterns may be enough to help someone suffering from insomnia."

Sleep apnea, which usually affects middle-aged overweight men, is not as easy to treat. The air flow is blocked by excess fatty tissue that can cause the patient to wake up briefly or rise partially out of a deeper sleep. This causes loud snoring, or snoring and must be treated

with sleep therapy using a combination of weight loss, possible medication, and Nasal Continuous Positive Air Pressure (Nasal CPAP), an air-mask worn at night that prevents blockage by forcing air into the lungs.

People who think they may be suffering from a sleep disorder should see their doctors before coming to the new lab.

"Sometimes a sleep disorder can be corrected through medication or improved sleep habits and there is no need to come to the Sleep Disorder Laboratory," says Bagdoff. "We won't accept patients without a physician referral."

After a patient arrives, Bagdoff consults with the patient to determine if a diagnostic sleep study is necessary. A sleep study is conducted overnight in the Neurodiagnostic Center where the patient's sleep patterns, heart functioning and air flow are monitored.

The monitoring equipment can be moved easily and sleep studies could eventually be performed in the patients' homes. The patients would be supervised by specially trained personnel. "The advantages of doing sleep studies at home are that patients tend to sleep better and more naturally and it's more convenient," says Bagdoff.

A diagnostic sleep study will determine if a patient has a sleep disorder and what method of treatment is most effective. For most patients with sleep apnea, Nasal CPAP and weight loss will be prescribed.

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Blair County Area Gets Safe Return Program

A nationwide program to help Alzheimer's disease patients and caregivers is now available locally.

Together Allegheny Lutheran Social Ministries and Mercy Regional Health System have established the Safe Return Program, created by the National Alzheimer's Association.

The Safe Return Program will serve Blair County residents.

Safe Return helps others locate, identify, and safely return persons with dementia who wander away and become lost. Four million Americans with Alzheimer's are in danger because of the disorientation associated with the disease.

Safe Return provides:

Immediate alerts to local enforcement agencies

Training for families and caregivers on how to prevent wandering

Identification to alert others that the person is "memory impaired," imprinted with a national toll-free number

Support for families during the search process

"We are extremely pleased to be working

with the people at Allegheny Lutheran Social Ministries," says David J. Davies, Mercy CEO. "We look forward to collaborating with them on more projects for the betterment of health care in this community."

"So many people with this relentless disease—and so many of their caregivers—feel helpless under its weight," says Dawn McKee, president and CEO of Allegheny Lutheran Social Ministries. "Safe Return provides a measure of relief."

Patients are registered into a national database accessible 24 hours a day via a toll-free number. They receive identification with name, ID number, and toll-free number.

Enrollment forms are available locally from Mercy Regional Health System, (814) 949-4317, Adult Day Activities Program, 701 Quail Ave., Altoona, (814) 946-4693, or from the national association at 1-800-272-3900.

Safe Return requires a one-time \$25 fee to cover cost of ID materials—necklace or bracelet (includes engraving), wallet cards, and clothing labels.



Davies: Program strengthens community.

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HRSA Examines Financing of Rural Health-Care System

Continued from Page 1

past and which we think will improve health, in addition to reducing the cost of health care.

What more can HRSA do, what specific steps do you see this agency taking in the next two years and over the longer term to get primary care delivery out into rural areas in particular?

We are looking at the broad picture first, at the needs of the communities regarding the health professionals, the physician, the dentist, the nurses that they need to provide health-care delivery. We then are pushing very strongly through our training programs, through our committee that we have on the development of policy, to increase the number of primary care practitioners, physicians, as well as nonphysicians.

Does that mean more dollars for training and retraining?

If we get some of the health-reform measures, yes, there will be absolute increases in dollars to enhance those particular programs. If we don't get an enhanced amount of dollars, nonetheless, we will work vigorously with the health profession schools to assist in the redirection, the expansion of primary care training programs.

What is the reaction so far?

I think there's been cooperation. It's been gradual and some may say it's slow, but in reality, medical education is a very complex system. There are many factors associated with how one selects students to enter the health professional field, the type of training and education they receive and then, ultimately, their practice behaviors, whether they go into a specialty or primary care, or they practice in a rural area as opposed to a large city. There are many funding streams and there are many players involved, so to try to make a change does take some time.

Do you see the National Health Service Corps becoming more of a factor when recruiting to get doctors who take advantage of those loans to stay and serve the poor?

I think that's absolutely right. The National Health Service Corps, as you know, went through its heyday and then was decreased. [Congress] now has reinvigorated [it] and we see that this important program needs to receive further support and funding for its efforts, because it does hit at the heart of the matter.

It provides for health professionals, mainly physicians, but we want to try to bring other health professions into the National Health Service Corps. It brings these individuals to underserved areas that need their skills. We think that [through their] exposure there that



Sumaya: Primary care programs will grow

they will not only provide a service while they are there, but are more likely to stay in those areas.

The program needs some enhancements, some improvements. We are trying to see if we can draw in a greater interaction with the communities, with the states, in the recruitment and with some of the placement and retention strategies. We are trying to work more vigorously with the health profession schools, the academic health centers, the teaching institutions, in this program. We want to then integrate this program with others we have like the Area Health Education Centers (AHECs).

This latter program develops training sites away from the university hospitals in smaller communities and in rural areas. These AHEC training sites [can] become a support for National Health Service Corps people and also assist communities to more effectively recruit other health-care professionals and retain health professionals in those areas. It's a support system that can bring in continuing education.

It can bring in the libraries, a medical literature retrieval system. It can be a focus on telecommunications and all of the support services [that will] enhance not only activities like the National Health Service Corps, but the health professionals in that community itself.

You hail from San Antonio?

Well, I come from there, but I'm originally from Brownsville, Texas, the southern tip.

You are well aware of the problems of the immigrant community and the special problems that afflict the poor.

I am very familiar with rural areas in South



Texas, but we have not only rural, we have some frontier counties as well. I did deal with a number of programs that affected those areas, including poor immigrant populations.

What's it like to be a physician, trying to deliver care, and trying to negotiate your way through bureaucracies, limitations on funding? How did that affect your career choices and how did it get you where you are?

I was from that area and when I went back to work in that area as a physician with pediatric infectious disease training, what I saw first as an individual, was that I think I was accepted more because I was from that area. In addition I not only knew people, but I knew the history, some of the pitfalls. A lot of those are political, [it's] the areas that you have to be part of when you get involved with those programs. I think I was also able to leverage a number of resources from our health science center because I also had the credibility from working outside of the academic setting, working with the community.

So I think I had some advantages working for me as I knew these communities. But it is hard when you try to work where the resources haven't reached those areas. A prime example would be the educational system. Where I grew up, and I think this is similar to what you see in a number of rural areas, the school system starting from the grade school on up, does not have a large funding base. It may not have a large tax base.

It doesn't have the teachers. The instructors may not have sufficient training in some areas, particularly in math and science. A number of the resources in the school system were not at par with what you see where there is a better tax base. And it goes into higher education. We didn't have the higher institutions, four-year universities, to any great extent and those few that we had received minimal support from the state.

So you are working with limited educational resources to start with. The number of people who were at certain economic levels or certain educational levels is worse. So it's harder to work in those settings. Nonetheless, I think I found there, as you can find in almost every place, some excellent resources and excellent minds. It's a matter then of leveraging, of collaborating, of putting strategies together to try to see how you can work with what you have, and then to try to improve on that by linking these resources.

I can see the parallels in other rural parts of the country. Again the networking part is so important to getting these people into the field, an example being [encouraging] somebody, a young individual from a rural city, to eventually get into a health professional school, because they are more likely to come back to that rural area.

Do you see additional funds coming into rural areas? What do you have to work with? You've got hundreds of community migrant health centers scattered across the country.

We've got something like 700 community migrant health centers. And there's an idea to encourage communities to develop their own health-care centers. Do you think Congress is going to embrace that idea and provide funding, or is there some way to try and leverage what you've got to help?

Yes, both. First, we're trying to see if Congress will give much stronger support to not only the development of models like the community migrant health center system, but networks within communities and assessments within communities as to how they want to develop their health-care activities and efforts and resources in those cities or regions, or states as a whole.

So that would be planning assistance?

It could be planning assistance, but it also could be infrastructure assistance, and that could be pushed much more strongly if we can get components of the Clinton bill that deal with that passed. That's what we're pushing for. If, for some reason, that doesn't get passed to the extent that we'd like, we still would work where we have been in expanding the community migrant health-care center system. There is strong support in Congress for this program... and we hope that will continue.

The rural health clinics, we also see that as an area where we work

federally with the states, matching funds in developing these types— I am really talking about the state rural offices, not the rural clinics. The rural health clinic is also supported through federal reimbursement through the Department of Health and Human Services to assist in the development and maintenance of these particular programs and likewise, those can be enhanced.

So a number of these resources can be pushed much more strongly, if we were to have the features of Clinton's bill in place, but if we don't get them to the full extent, we can still move in that direction with either current funding or some enhanced support from Congress in the future.

Are you hopeful that can be accomplished with this Congress?

I think we can. Intense efforts are being made and although people say that Congress has a break, I think we all know that they are thinking about where they're going to proceed and we're going to try to assist in moving on a number of issues that we think are important.

AIDS and HIV are an increasing problem in rural areas. Although each rural area is different, there are pockets of HIV and AIDS cases that are alarming. How do you see HRSA helping rural practitioners who are suddenly facing HIV outbreaks? What kind of infrastructure is in place and developing?

Currently through HRSA, we support the Ryan White Care Act and the pieces of that are first to provide support to cities that have large numbers of AIDS cases. The second one that affects rural areas more would be support for state systems of care for HIV and AIDS patients. This component then leads the state to develop the planning and assessment as to how they can provide services, prevention, and management of HIV and AIDS cases.

Another component in the AIDS program deals with enhancing the care of AIDS and the prevention of AIDS in primary care clinics. This

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HRSA Examines Financing Of Rural Health-Care System

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will affect the rural health clinics, the community migrant health centers that are scattered throughout the country, many of them in rural areas. We also have a component of the program that deals with support for mothers and children and this can be, again, in various clinic-type settings.

In addition we support AIDS education and training centers [for physicians and other health workers] and these are training centers that cover regions, several states. They try to work with practitioners to try to enhance their skills in prevention and management of HIV and AIDS patients.

A lot of physicians and others are scared to death.

That's right. They're worried about taking care. "Maybe I can catch it." It is frightening and they feel less competent and so say, "Well, somebody who is more competent can handle this," or they may be afraid that their practice is going to be hurt because they are going to see patients who have AIDS and some of their other patients may not want that. So, all these areas are what the AIDS education and training centers are trying to focus on with health professionals.

Many of these patients are quite sick, poor and often have no way of making a living after a certain point. Are doctors willing to donate their time to a clinic elsewhere? Do you find less resistance?

Elsewhere, yes. I think there's all kinds of scenarios, including that one, on how encounters with health service delivery occur. We are trying to get a better handle on what is going on in the rural areas with health-care delivery for HIV and AIDS patients. In fact, yesterday, we were discussing a major study that we are interested in launching, [that would] assess that, because we don't have a very clear picture of what is actually happening in the rural areas. Are these patients being treated effectively in a rural setting? We intend to do a well-structured analysis on what's happening, where do we need to improve, and where do we need to intervene.

What else would you like to cover?

Many of the issues of health-care reform deal with reimbursement systems and managed care and that may affect the rural community to some extent. But the rural community has other [human resource] needs as far as I can see, in the health professions, particularly. So I see in HRSA's arena health and human resources. Are [health professionals] going to practice in rural areas? What's happening now, a day? And we are seeing that picture is getting, I would say, bleak. The [majority] of graduates that we are getting from medical schools and others are not choosing to go into practice in rural areas. The trend is, unfortunately, not in that direction.

HRSA needs to assist in redirecting those efforts so that we do have more practitioners going into rural areas and concurrently with that, other options and other strategies that we have to make health care more available in rural areas. Some of the measures that we are looking at are, how can we assist in the selection process so that we [encourage] practitioners to go into rural areas?

Here, I think, we will be looking at more innovative, more relevant ways of how health profession schools should select [candidates], because that may [pose] a significant barrier. Who they select and where do those individuals eventually go?

What models are you thinking of?

My agency cannot tell health professional schools whom you can or cannot select. But there are ways to affect the selection process. One of them would be to enhance community-based training of health professionals. Get the training, the education of our medical students, our nursing students, our dental students, and others into a community-based setting. It could be a hospital, but it could be ambulatory clinics and these could be not only in cities, but they could be in small cities.

They can be in rural communities as well. If we have community-based training sites, where students are exposed to these areas and they [have an opportunity to] see how people there cope with the circumstances and still get things done, flourish or thrive, then I think they will be more comfortable setting... and practicing there when they finish.

At the same time, you are setting up this tidus of support. You are setting up a training base. You are bringing in with that training, continuing education, and library systems. You are bringing in people from the community who are health practitioners and helping them assist in the training process. They are going to be your faculty. Help them to get some enhanced skills in education and evaluation of students.

This then develops a support system where other health professionals would be interested in going, practicing, and staying there because they are not isolated. In addition you can bring in telecommunications to those areas and reduce isolation. That technique can allow for long-distance education, long-distance consultation for those areas, again breaking that isolation.

You'd have the ties with larger urban teaching hospitals or teaching institutions. There are models for this in West Virginia, for example. Clinicians from rural areas go and stay for a period of time at an academic institution.

They get rejuvenated, and [obtain] new learning skills. And then they go back. This can diminish the burnout the rural practitioner suffers, or that feeling of isolation that they may have. Likewise, I could see people from urban areas and the teaching institutions should also go down to rural sites. They could be a visiting professor, spend some time teaching at a community-based site, interacting with the school systems, and draw more students from those areas into the health profession field.

I think that's an area that HRSA with current resources, [can]

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impact). We have been doing it, but I want to push more in that direction. Hopefully, with health-care reform, we are going to get an increased boost in that direction.

Nursing is changing. Schools are graduating nurses and they can't find jobs in hospitals anymore. We know we need nurses. How do you see HRSA fitting into this as patient hospital days under managed care decrease? How do we integrate and how do we reeducate the support personnel who are now needed in different places?

We are aware of many changes going on in the nursing arena as well as other health profession fields. Some of the ways we can directly impact on that would be through the support of training programs, through the support of some innovative models we have for nursing education.

In addition we are also very involved in the policy arena and interact with the administration [with the formulation of] some of the legislation. We provide some thoughts and assistance with the language.

There are a number of diverse changes in nursing. There is a strong movement in advanced nursing so that they have additional skills—the nurse practitioner, the certified nurse midwife, the clinical nurse specialist—so that they can practice more effectively.

This has a lot of relevance to the rural community because a number of nurse practitioners are basing their practices in rural areas. Some are in the rural health clinics, others are associated with a physician's practice, individuals or groups, and so on.

The other side is that I am interested in promoting stronger community-based nursing. The public-health nurse somehow got lost over the past few years. Public-health nurses, school-based nursing, I think these areas need to be enhanced. HRSA is going to be in the forefront of a number of these activities, working with the nursing community, the Association of Schools of Nurses, and other nursing organizations.

There was a program to get vaccines out in greater quantities. What happened there?

It's still moving. It's a complex issue. There are so many parts to getting immunizations out into the community. We're working throughout the Public Health Service and the Department of Health and Human Services to really move on it and I think we need strong efforts in having these vaccines available. This was what a lot of that effort was about, to get that vaccine out in sufficient numbers to reach all the children of the country.

Even in the emergency room?

Even in the emergency room, if we are really going to make an all-out effort to try to reach these individuals. Also education of the families, which is pivotal.

The parents, in addition to the child, need to understand the importance of immunizations so they may be the drivers, you might say, in seeing to it that immunizations reach children.

Our problem is preschool. Once they get into the school system, we immunize our children. So our problem is with preschool children and getting them immunized. We need to bring all of these factors into play and each is an important component.

[The very poor are] falling through the cracks and so we have to see that all the available sites, schools, preschools, as early as possible—when they go for their WIC visit for example—all these different settings, we need to be ready to immunize, and not only immunize, but have an information network to track these individuals, and the follow-up immunizations that are needed.

We're seeing a resurgence of TB and drug-resistant TB especially in poor [immigrant] communities.

Yes, exactly. And many times we don't consider that and so we develop health-care systems—it's not just having the health professional there, the doctor there. You may need to have enabling services: transportation, language translation, and so on, to bring them in, or outreach services for those people.

That's the Visiting Nurses Association. It's an old concept. Is there any consideration being given to increasing the role of the visiting nurses so that they can reach more of these in need.

Some of the enabling services that the Clinton bill has does speak to that. I think that needs our full support, because it is part of our health-care system that has diminished with time. We have interest in looking at where we can assist public-health nursing. We can assist in the public health department and other settings with the outreach components, the enabling services within the community migrant health center system that we do supervise, we do have those types of activities and we're trying to make sure that they are in place and they are enhanced.

Some of related areas would be the emerging field of the health educator, the community health worker. This is a person who may be from that community, that neighborhood, who is provided with additional training and skills and education and in outreach and obviously has the credibility within the community. She or he can be the instrument to reach the community more effectively. That's an area that is developed more in other parts of the world with community health workers, or health educators.

Do they need to be brought into our community college system and provided with a certificate and title? There are some private foundations that are also driving into this. Project HOPE is looking at some of these areas and if we can conalesce our efforts and look carefully and critically at the role they can play and how we can enhance their role, I think they would be a formidable addition to our health professional work force.

There's a lot going on in the states. Legislatures are looking at the schools and saying what performance do they have. Some states may be venturing as well, we're going to tailor your appropriations depend-

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HRSA Examines Financing of Rural Health-Care System

Continued from Page 13

ing on how many primary care students or graduates you have, and how many are going out to the rural areas. Legislatures are looking at this. As state-supported institutions, they should meet state needs. Are they doing that?

So there's a lot of people getting involved in education, training, and accountability. The reimbursement issues at the national level are resource based, relative value systems, which are looking at reimbursement of primary care practitioners because there is this gap between primary care and specialties and that is hurting the primary care physician.

There's some closing of the gap and that will enhance not only the numbers going into primary care but where they practice as well, particularly since we're trying to provide other incentives to practice in rural areas through Medicare and Medicaid support of those physicians in rural areas. So there are reimbursement issues that are moving to try to support them.

Some doctors say they don't want to deal with Medicare and Medicaid because of the pay scales and paperwork.

The paperwork is involved, yes. We're trying to streamline that, and enhance payments. The rural health clinics do have enhanced payments from Medicare. That's an intentional measure to assist in improving the health care in rural areas. Through HRSA, we have an office of rural health policy and it supports state rural health offices. We provide grants for systems development dealing with rural health. We recently just launched a program on telecommunications, telemedicine, a \$4 million program that is just starting out. We haven't even awarded it yet. That should be out shortly. But again it's to assist in consultation with rural areas for more specialty-type care.

What else would you emphasize?

One of my major emphases is the health-care work force and right now, a lot of the movement is in specialty-primary care area. One of the more complex and more difficult areas in the supply of health professionals is in their distribution.

I think sometimes we haven't worked on the distribution problem as strongly as we have on the specialty-primary care mix. I intend to look much more into distribution and as well, into the diversity of the health professional work force, not only in terms of race and ethnicity, but also gender and geography. Geographic diversity is going to be an important part of HRSA's agenda.

AHCA Selects 1994 Volunteer of The Year Award Winners

The American Health Care Association (AHCA) has selected its 1994 Volunteer of the Year Award winners.

"These are individuals whose contributions make a vast difference in residents' quality of life," says Bruce Baldwin, AHCA president.

"Through the time and care that these volunteers have given, they have helped to provide the friendship and a sense of community that is so important in every life, especially for nursing facility residents."

Florida Finley of St. Elmo, Ill., has been chosen for the adult volunteer award. Finley recruited more than 40 volunteers to help the pool.

Rhannon Storkamp of Sauk Rapids, Minn., will receive the young adult volunteer award.

Awards will be presented at AHCA's convention and exposition in Las Vegas, Nev., this month. Each year AHCA recognizes one adult, young adult, and group for exemplifying the vital role that volunteers play in nursing facilities nationwide.

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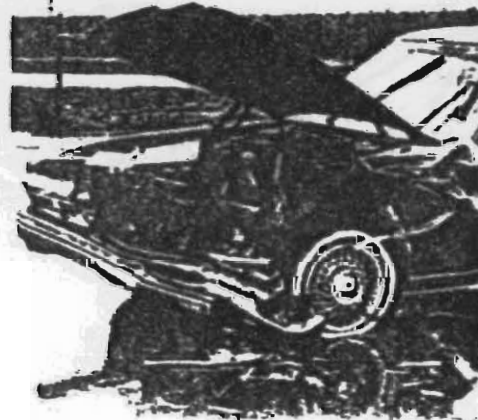
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The Silver Lining in the RBRVS Cloud

By Joseph T. Donnelly, CPA

The relative value service units that underlie the resource-based relative value scale (RBRVS) fee schedule provides a basis for evaluating many financial aspects of a physician practice. Physicians are just beginning to understand the long-term implications of Medicare's RBRVS payment system. Their initial reaction focused on estimating the effects the fee schedule would have on revenue and on

than 7,000 current procedural terminology (CPT-4) codes, and it converts these relative values into dollar amounts by applying a conversion factor. Although RBRVS is a reimbursement mechanism, most of the data underlying it has applications in a broader context. A determination of the total number of relative value service units rendered by a practice establishes a "denominator" for the clinical services of a practice

and the framework upon which sophisticated measurements of financial performance can be based. Because the "denominator" involves procedures performed by physicians for all patients regardless of payer, it forms a comprehensive basis of evaluation for the overall financial performance of the practice.

The development of the clinical services "denominator" requires that procedure code data from the practice's billing system be correlated with relative value weights for each procedure from the Medicare RBRVS and

Please turn to Page 16

Joseph T. Donnelly, a member of the Physician's Advisory Network, heads his own accounting firm in Pittsburgh.

scrutinizing the way in which they will process claims in accordance with the fee schedule's new billing, coding, and reporting requirements.

Although RBRVS primarily concerns the fees paid by Medicare to physicians for health care, it also provides valuable data on the resources consumed and the work expended in the delivery of specific physician services. The relative value service units underlying the fee schedule, therefore, may be used by physicians to measure financial performance in ways that have not been previously available.

RBRVS establishes relative values on the basis of the resources used by doctors to perform a particular service. It subdivides resources into three parts: physician work, practice expenses, and malpractice expenses. RBRVS establishes relative values for more

Exhibit 1: Total relative value service units for a sample orthopedic practice

20610	Drain inject joint	45	22	17	84	1.36	114
20663	Application thigh brace	66	30	28	124	10.82	1,342
27244	Repair thigh fracture	46	44	17	107	35.17	3,763
27253	Repair hip dislocation	66	25	40	131	28.70	3,760
27310	Exploration knee joint	83	36	13	132	20.41	2,694
27427	Knee reconstruction	70	45	29	144	26.38	3,799
27440	Revision of knee joint	26	25	36	87	24.69	2,148
27448	Incision of thigh	72	53	34	159	26.56	4,223
27487	Knee joint replacement	86	72	63	221	68.48	15,134
27580	Fusion of knee	23	19	8	50	32.44	1,622
99204	Office visit, new	100	88	60	248	2.59	642
99212	Office visit, established	90	76	50	216	0.72	156
99214	Office visit, established	75	52	22	149	1.52	226
99241	Office consultation	66	63	53	182	1.29	235
99272	Confirmatory consult	22	41	18	81	1.75	142
Total annual relative value service units							40,900

* Based on the original Medicare RBRVS coding.

* Relative value service units are the procedure's relative value.

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System Changes: The Silver Lining in the RBRVS Cloud

Continued from Page 15

incorporated with spreadsheet software. Exhibit 1 illustrates the calculation of total annual relative value service units for a sample orthopedic practice.

Once calculated, the total relative value service units enable physician practices to analyze aspects of financial performance, such as: profitability, incentive payment distributions, and budgeting.

The following discussion explains how relative value service units may be used in the analysis of profitability, incentive payment distributions, and budgeting. The discussion examines three scenarios to illustrate the analytic techniques that are being employed.

Scenario 1 - assumes a 10 percent increase in revenues and superior management of office expenditures

Scenario 2 - assumes a 10 percent increase in revenues and poor management of office expenses

Scenario 3 - assumes a third physician has joined the practice and office expenses have been poorly managed, as indicated by a 50 percent increase in office costs in one year.

Profitability is analyzed in terms of two factors: (1) changes in physician activities and (2) changes in efficiency. Exhibit 2 presents the overall profit per relative service unit for the first, baseline year and compares the profit per relative value service unit that will occur in the subsequent year for both scenario 1 and scenario 2.

By calculating profit per relative value service unit, the affect on profitability with inefficient management of office costs becomes evident. The ability to forecast profits then can focus physicians' attentions on the areas of practice management that require improvement.

As can be seen, revenues increase by the same amount under both scenarios. The profit per relative value service unit also increases in both scenarios. However, the calculations of the components of profit per relative value service unit reveal the powerful negative effect on profitability when expenditures are not tightly controlled.

The analysis of profitability also may be presented in a way that shows the changes in the total profit to changes in the volume of services provided and the efficiency with which services are rendered. This form of profitability analysis quantifies the factors that affect profit in a way easily understood by physicians.

Exhibit 3 shows the net changes in profitability that will occur under scenario 1 and scenario 2 and illustrates how volume and efficiency improve the profit picture.

The exhibit shows that the \$30,000 difference in net profitability change between the two scenarios is due to lack

Exhibit 2: Profit analysis for sample orthopedic practice

	Year 1	Year 2	
		Scenario 1	Scenario 3
Revenues	\$1,000,000	\$1,100,000	\$1,100,000
Expenses			
Office-related	150,000	150,000	180,000
Physician salaries and costs	500,000	550,000	550,000
Profit available for distribution	350,000	\$400,000	\$370,000
Relative value service units			
Physician A	21,000	22,000	22,000
Physician B	19,000	20,000	20,000
Total relative value service units	40,000	42,000	42,000
Profit per relative value service unit			
Physician activities ^a	\$12.50	\$13.10	\$13.10
Office-related costs ^b	(\$3.75)	(\$3.57)	(\$4.29)
Overall profit per relative value service unit	\$8.75	\$9.53	\$8.81

^a For more than physician-related costs divided by total relative value service units, e.g. \$1,000,000 / 80,000 = \$12.50 in YR 1

^b Office-related costs divided by total relative value service units, e.g. \$150,000 / 40,000 = \$3.75 in YR 1

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S Cloud

practice

Scenario 2
\$1,100,000

180,000
530,000
\$370,000

22,000
20,000
42,000

\$13.80
(\$4.29)

\$8.81

of control of office expenses.

The determination of the components of profitability is critical for practices that are expanding services and/or adding doctors to the group. Exhibit 4 illustrates the effect on profits when another physician is added and additional office costs are incurred.

This exhibit shows that, although the addition of the physician contributes \$500,000 to the overall revenue of the practice and \$75,000 in profit available for distribution, it does not increase the overall profit per unit of service.

This type of analysis allows doctors to look beyond the total increase of \$75,000 in profits and isolate the factors contributing to the \$1.02 decrease in overall profit per relative value service unit. Such information may lead physicians to institute productivity measurements for each doctor in the group and control office costs to bring the overall profit per relative value service unit in line with previous levels.

Exhibits 5 and 6 demonstrate how relative

Exhibit 3: Analysis of the components of profits for a sample orthopedic practice

	Year 2	
	Scenario 1	Scenario 2
Volume factor Change in service units	\$17,500	\$17,500*
Efficiency factors Physician activities Office-related costs	\$25,000 \$7,500*	\$25,000* (\$22,500)*
Net change in profitability from Year 1	\$50,000	\$20,000

a. Calculated as follows: Change in relative value service units from YR 1 (\$40,000) to YR 2 (\$57,500) = 1.44x overall profit per relative value service unit as YR 1, Exhibit 2 (\$13.80).

b. Calculated as follows: Change in physician activities from YR 1 (\$12.50) to YR 2 (\$13.80) = 1.10x and relative value service units as YR 2 (\$57,500).

c. Calculated as follows: Change in office-related costs from YR 1 (\$3.75) to YR 2 (\$4.29) = 1.15x and relative value service units as YR 2 (\$57,500).

d. Calculated as follows: Change in office-related costs from YR 1 (\$3.75) to YR 2 (\$4.29) = 1.15x and relative value service units as YR 2 (\$57,500).

Exhibit 4: Profit analysis with the addition of a new physician to the sample orthopedic practice

	Scenario 3	
	Year 1	Year 2
Revenues	\$1,000,000	\$1,500,000
Expenses		
Office-related	150,000	225,000
physician salaries and costs	500,000	850,000
Profit available for distribution	\$350,000	\$425,000
Relative value service units		
Physician A	21,000	22,000
Physician B	19,000	20,000
Physician C	0	13,000
Total relative value service units	40,000	55,000
Profit per relative value service unit		
Physician activities	\$12.50*	\$11.82 b
Office-related costs	(\$3.75)*	(\$4.09)*
Overall profit per relative value service unit	\$8.75	\$7.73
Components of profit		
Volume factor		\$131,250*
Efficiency factors		
Physician activities		(\$37,500)*
Office-related costs		(\$18,750)*
Net change in profitability in Year 1		\$75,000

a. Revenue \$1,000,000 divided by total relative value service units 40,000 = \$25.00 per relative value service unit.

b. Revenue \$1,500,000 divided by total relative value service units 55,000 = \$27.27 per relative value service unit.

c. Office-related costs \$150,000 divided by total relative value service units 40,000 = \$3.75 per relative value service unit.

d. Office-related costs \$225,000 divided by total relative value service units 55,000 = \$4.09 per relative value service unit.

e. Change in relative value service units from YR 1 (40,000) to YR 2 (55,000) = 1.38x and overall profit per relative value service unit as YR 1 (\$8.75).

f. Change in physician activities from YR 1 (\$12.50) to YR 2 (\$11.82) = 0.94x and relative value service units as YR 2 (\$55,000).

g. Change in office-related costs from YR 1 (\$3.75) to YR 2 (\$4.09) = 1.09x and relative value service units as YR 2 (\$55,000).

value service units provide an objective way of establishing incentive distribution arrangements by identifying the relative contribution to practice profits made by each physician and office staff member.

Exhibit 5 assumes that the total bonus to the office staff members will be based partially on their contribution to profits and partially on their achievement of individual performance goals. The amount of the bonus awarded for individual performance is determined on a subjective basis.

Exhibit 6 indicates how profits available for distribution may be distributed equitably to physicians based on the number of individual relative value service units each rendered. The profit available for distribution to physicians, after bonuses have been paid to office staff, is divided by the total number of relative value service units generated by all physicians in the practice. This figure is multiplied by the total number of relative value service units generated by each physician. The effect of introducing a third physician in scenario 3 becomes apparent when bonus distributions are based on relative value service units.

Another important application of relative value service units in the management of a physician practice relates to the development of yearly budgets. The profit per relative value service unit may be used as an indicator to introduce volume and efficiency factors into the budgetary process. For example if a physician practice wishes to improve profits by 10 percent in the next year, it can determine how many more relative value service units each physician would need to generate to meet that goal. The practice also may use overall profit per relative value service unit as a guide for determining how other expenses, such as doctors' salaries and office expenses, may need to be adjusted to meet the 10 percent goal.

Please turn to Page 18

Exhibit 5: Incentive payments to office staff in a sample orthopedic practice

	Scenario 1	Scenario 2	Scenario 3
Total profit available for distribution	\$400,000	\$370,000	\$425,000
Distribution to office staff			
Contribution to profit			
Office staff A	2,500		
Office staff B	2,500		
Office Staff C	2,500		
Individual performance (discretionary)			
Office staff A	1,500	500	500
Office staff B	1,500	1,000	1,000
Office staff C	1,500	1,000	1,000
	4,500	2,500	2,500
Total bonus to office staff	12,000	2,500	2,500

Exhibit 6: Incentive payments to physicians in a sample orthopedic practice

	Scenario 1	Scenario 2	Scenario 3
Profit available for distribution to physicians ^a	\$388,000	\$367,500	\$422,500
Total relative value service units for the practice ^b	42,000	42,000	55,000
Relative value service units by physician ^b			
Physician A	22,000	22,000	22,000
Physician B	20,000	20,000	20,000
Physician C	N A	N A	13,000
Distribution of profit to individual physicians ^a			
Physician A	\$203,238	\$192,500	\$169,000
Physician B	184,762	175,000	153,636
Physician C	N A	N A	99,864

^a Total profit available for distribution less total bonus to office staff

^b From Exhibits 2 and 4

^c Profit available for distribution to physicians divided by total relative value service units multiplied by relative value service units generated by each physician

The Silver Lining In The RBRVS Cloud

Continued from Page 17

In a flexible budget environment, use of relative value service units allows for the necessary increase in expenses in the face of increased clinical activity to ensure that resources will be in place to meet the needs of patients. In decreased clinical environments, use of relative value service units can assist physicians and their office managers in identifying areas where cost reductions must be made.

This is a silver lining in the RBRVS cloud. Physician practices should consider the benefits of using the underlying data in a constructive way to manage the finances of the practice.

Suicide Rate Is High Among America's Young People

By Rea Howarth
Associate Editor

The recent suicide of Kurt Cobain, a popular rock star, shocked many young people. Sadly, Cobain represents, says Dr. Eve Moscicki, chief of the prevention research branch at the National Institute of Mental Health, "a textbook [young suicide] case. He had, virtually every single risk factor in the book." He had earlier attempted suicide while on tour. He was depressed, intoxicated, and had been on heroin. He had a troubled family history, including suicide. Furthermore, he had a gun in the house.

Despite numerous efforts to prevent suicide among adolescents and young adults, the suicide rate remains high, the Centers for Disease Control and Prevention (CDC) says in a special issue of the *Morbidity and Mortality Weekly Report*. Since 1980 the suicide death rate among teens has risen 30 percent, from 8.5 to 11.1, while the rate for young adults has declined slightly, from 16.1 to 15.1. For young persons aged 15 to 24 years, 4,751 committed suicide in 1991, making it, after unintentional injuries and homicide, the third leading cause of death.

Some of the increase can be attributed to more accurate reporting. In recent years, says Moscicki, people involved in reporting deaths have become less reluctant to report suicide deaths rather than labeling them undetermined cause or death by accident. Nonetheless deaths among young people have increased.

"In a nutshell," says Moscicki, "the strongest risk factors for suicide are mental and addictive disorders. Over 90 percent of all suicides are associated with mental and addictive disorders, most often in combination." It is not, she emphasizes,

Living In a Cloud

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Life Is High America's Role

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Editor

Art Cobain, a popular
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Although much is known about the risk factors associated with suicide, little is known about the effectiveness of current suicide prevention programs. Recently, the CDC's National Center for Injury Prevention and Control published a resource guide, which is designed to help communities improve their suicide prevention programs for young people.

Eight programs are offered to help prevent youthful suicides.

- Training for school staffers, to spot students at risk. Trainers also teach how to respond to suicide and other school crises.
- Training for clergy, police, recreation staff, and clinical health-care providers to help them identify young people at risk.
- General suicide education for students to teach them to seek help for themselves and others.
- Screening programs that use questionnaires and other tools to identify high-risk adolescents for referral.
- Peer counseling designed to help foster peer relationships and competency in social skills for young people at risk.
- Crisis centers and hotlines where trained volunteers counsel and assist suicidal persons find mental health services.
- Restriction of access to guns, drugs, and other common suicide means.
- Intervention after a suicide prevent a rash of suicides and help youths cope with the loss of a peer.

In general these programs are designed to help steer young people at risk into appropriate treatment. Many teach coping skills and work on promoting self-esteem. However, no programs emphasize restricting access to the instruments of self destruction such as handguns and pharmaceutical agents that make it possible for young persons to kill themselves, the CDC says. "This strategy was not a major focus of any of the programs identified. Other promising strategies, such as peer support programs for those who have attempted suicide or others at high risk, are rarely incorporated into current programs."

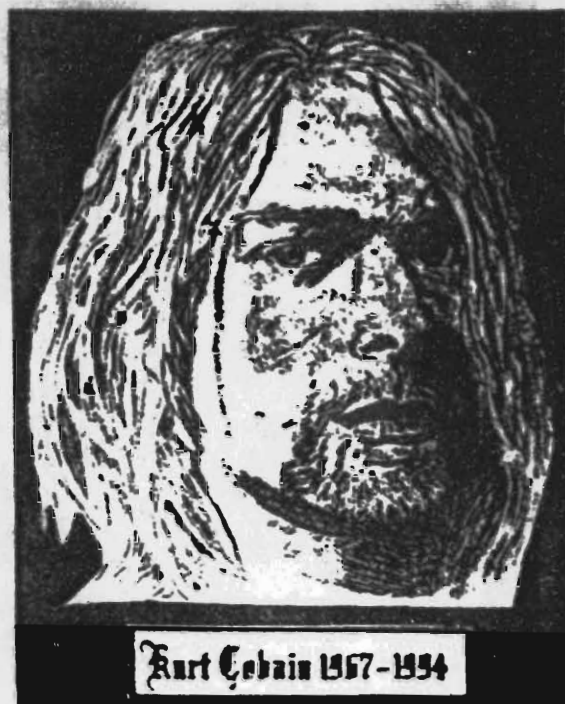
Moreover suicide prevention efforts targeted toward young adults are relatively rare; most focus on high-school-age children. In all likelihood, says the CDC, it is probably "because they are relatively easy to access in comparison with young adults who may be working or in college. In addition persons who design and implement such efforts may not realize that the suicide rate for young adults is substantially higher than the rate for adolescents."

Other programs, such as alcohol and drug abuse centers, runaway centers, and programs for pregnant teenagers, are rarely considered as possible places to prevent suicide, although their already self-destructive clients exhibit some of the strongest signs they might commit suicide.

Links between suicide prevention programs and existing community mental-health resources are often inadequate, with few working relationships established to follow up and evaluate programs that attempt to identify and refer at risk young people. Conversely, easy-to-implement school-based educational efforts are fairly common, but these approaches generally consist of one-time lectures on the warning signs of suicide, which may, in fact, be counterproductive.

This is "a method that is unlikely to have substantial or sustained impact and that may not reach high-risk students," such as those who have considered or attempt suicide, the CDC warns. In fact, says Moscicki, one study of the effectiveness of such educational approaches found that these programs make no difference at all and, in one school-based experiment, researchers found that the lectures left susceptible youths even more disturbed than they were initially.

The resource guide doesn't recommend any one program over another, because information about the efficacy of programs is unavailable, the CDC says. However, it was recommended that prevention programs be linked closely with professional mental-health resources in the community and that communities incorporate promising but underused strategies for reducing access to weapons and drugs. For example parents with kids in drug- or alcohol-treatment programs



need to be taught how to recognize the warning signs for suicide and told to restrict their offspring's access to handguns and lethal drugs. Peer support groups for youngsters who have been contemplating or attempted suicide also should be established, but care should be taken in how they are implemented. In fact, says the CDC, discussions about suicide ought to be incorporated into broader mental-health discussions, because they can become a locus for suicidal ideation among susceptible youths.

For doctors and nurses who encounter young patients who have made attempts to harm themselves or have talked about doing so, there is a key question that should be asked of every parent, Moscicki says: "Is there a gun in the house?"

"In rural areas, that is the number one question I would want to ask. And if there's a gun in the house, make sure you remove it." Available research evidence indicates that storage practices are not enough to deter would-be suicides. "Storage makes no difference," Moscicki says. "The fact that the gun was in the house is what did it. In fact, if you don't have a gun in the house, your troubled young person is less likely to commit suicide."

While making sure that the tools for committing suicide are kept away from suicidal patients are effective short-term strategies, over the long haul young persons who have attempted suicide or talked about it must receive mental-health evaluation and treatment. Often health-care workers meet massive resistance in the form of denial, not only from the patient, but from the family.

"I think when people hear about a mental disorder or mental illness," says Moscicki, "a lot of people think about really extreme cases, like people who are psychotic. And that's not necessarily the kind of people who do it. Depression appears over and over and over again as a risk factor."

Yet depression is treatable, especially among young people. "It's treatable if you catch it soon enough," Moscicki points out. For about 80 percent of those diagnosed with major depression and other forms of depression, medication and forms of talk therapy can make all the difference.

Dealing With the Suicide

Sometimes physicians and other community officials make the mistake of clamming up when the media seeks information after a suicide. In rural communities, particularly where everyone knows everyone, suicide is news. There is a well-documented problem, however: reporting of suicide can trigger copycat attempts, especially among impressionable young people.

There is a way to do it right, says the Centers for Disease Control and Prevention in a report on "Suicide Contagion and the Reporting of Suicide: Recommendations from a National Workshop."

Health-care providers and police officials, while they should provide a concise summary, should be wary of releasing too many technical details, because they can become, literally, recipes for suicide. Responsible reporters and editors, even if they do know the gory details, should refrain from publishing them. Moreover, when the press reports contain emotional descriptions of public eulogies, flags flying at half-mast, and erecting permanent public memorials, they are, however unintentionally, glorifying suicide or the persons who commit suicide, says a panel of suicidologists, public-health officials, researchers, psychiatrists, and psychologists.

Similarly, family and friends seldom mention the more troubling aspects of a suicide's personality when speaking to the press. When these laudatory statements are repeated in press reports without putting them in context, they can make suicidal behavior appear attractive to others, "especially those who rarely receive positive reinforcement for desirable behaviors." In the case of the death of a prominent public person, where biographical detail is inevitable, it is important for the media to be sensitive to individuals and their psychiatric difficulties and place their behavior in context.

Risk Factors Associated With Suicide

Suicide is the end result of the complex interaction of many factors. It is not, however, the result of normal responses to the stresses that most people experience.

The National Institute of Mental Health says research shows that nearly all people who kill themselves have a diagnosable mental or substance-abuse disorder and the majority have more than one disorder.

In many cases there is a family history of mental disorder and/or substance abuse, suicide, or family violence, including emotional, physical, or sexual abuse. When persons with strong risk factors such as mental or substance-abuse disorders and impulsiveness encounter an adverse life event, they may become suicidal.

Other risk factors include:

- Prior suicide attempt
- Firearm in the home
- Incarceration
- Exposure to suicidal behavior of others, including family members, peers, or news or fiction stories.

Research indicates that recognition and appropriate treatment of mental and substance-abuse disorders is the most promising way to prevent suicide among all age groups.

School and community programs that address suicide as part of a broader focus on mental health, coping skills in response to stress, substance abuse, and aggressive behaviors present the greatest potential for lowering suicide deaths among young people.

Shoved Aboard the Bandwagon of 'Managed Care'

By Dan Mongan

James T. Shaeffer, an orthopedic surgeon in Springfield, Missouri, for 18 years, figures that the patients he has sent to St. John's Regional Health Center have paid millions of dollars of medical fees to the 736-bed nonprofit hospital operated by the Catholic Sisters of Mercy.

So Shaeffer was surprised last fall when hospital officials called him in and disclosed that St. John's would try to buy out his practice and the practices of dozens of local physicians. Once St. John's had established a tightly controlled network of clinics and doctors, it would sell its own "managed care" health plan to businesses, organizations and insurance companies. Doctors who did not go to work for St. John's network would face an uncertain future. The decision, made without consultation with most of Springfield's independent physicians, left Shaeffer feeling "about as valued as the house-keeping staff," he said. Now he and more than 200 other physicians have to decide whether to sell the hospital their practices, including medical records, patient lists, and office assets.

Like it or not, Springfield's medical community is being shoved aboard the fastest-moving bandwagon in the U.S. health-care industry. Known as "managed care," it replaces the traditional health delivery system, in which insurance companies paid providers for every procedure or diagnosis. In managed-care networks of hospitals and doctors, who often are hospital employees, provide all care to big groups of patients for a flat fee. Profits depend on limiting procedures and cutting costs as much as possible.

The shift to managed care, which is occurring even without health-care legislation in Washington, has stirred similar turmoil in hundreds of medical communities around the country and led to calls by the American Medical Association for legislation to protect the doctors' independence.

In some regions, such as Minnesota and Southern California, managed care has affected drastically what doctors are paid and how they practice medicine. St. John's is offering signing bonuses and other fringe benefits and has promised not to "interfere with the exercise of independent medical judgment by physician(s)." However, doctors who accept employment but quit later would face penalties of \$1,000 a day if they practice within 25 miles of Springfield within two years after leaving St. John's, according to documents obtained from sources other than Shaeffer.

Some doctors fear that if most local residents are enrolled in the health plans of St. John's and its main rival, Cox Health Systems, there would not be enough patients left for independent physicians to treat. "Nobody knows whether they can survive outside the system," says a doctor who asked not to be named. "The hospitals are saying, 'Here's your option. It's up to you. And you're not getting a second chance.'"

Spurred by health-care proposals and fear of competition from well-heeled insurance companies and HMOs (health maintenance organizations), St. John's and Cox have been moving aggressively to dominate this changing health-care landscape.

"The danger isn't socialized medicine, it's commercialized medicine," said Sylvan Lee Weinberg, past president of the American College of Cardiology. "Managed care is totally controlling everything, the flow of patients and access to doctors. It's an absolute scandal."

In most parts of the country, commercial insurance companies and HMOs have taken the lead in enlisting customers for managed-care health plans. Doctors often assert that the plans use the lower medical rates they negotiate to boost profits, not reduce what patients pay.

But in Missouri, North Carolina, and other states, hospitals have also emerged as major competitors. General American, Inc.,

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General American, Inc.,

a St. Louis-based insurance company that
runs the largest HMO in Missouri, warned
recently that the formation of "massive phy-
sician-hospital organizations in Missouri over
the past several years has formed an almost
impenetrable wall of capital around hos-
pitals" that deters competition by other
health plans.

Hospital officials in Springfield say their
goal is efficiency and cost control, and many
applaud their move. Even if Springfield ends up
with only two big hospital-based networks, "it
will be like having two Ford dealers. You'll go
to the one with the best deal," said Gordon
Kinney, who runs Med-Pay Inc., a local insur-
ance firm representing 40,000 employees and
dependents. But critics question whether the two
networks will leave much room for competing
health plans and HMOs. They also wonder
whether hospitals, with a vested interest in filling
beds and using their expensive medical tech-
nology, are the best institutions to contain costs.

"An oligopoly is not going to bring the
level of competition that will ensure the con-
tinuous search for lower costs and higher
quality," said J. Neal Eldridge, past chairman
of the Ozarks Area Business Group on Health, a
coalition of small businesses covering 36,400
employees and dependents that has tried unsuc-
cessfully to bargain with the hospitals in the past.
The conversion of St. John's and Cox to managed
care still surprises many in Missouri. For years
both resisted the penetration of the Springfield
health-care market by HMOs and refused to
bargain with local business groups over prices.

St. John's, which is part of a chain of
hospitals operated by the St. Louis-based Sis-
ters of Mercy Health System, and Cox, named
after the late Springfield businessman Lester E.

Cox, were major beneficiaries of traditional
"fee-for-service" medicine. Doctors could order
all the tests and services at the hospitals they
wanted, and insurance companies would pay.

Springfield's "Medical Mile," running
along both sides of National Avenue is a kind
of monument to the fee-for-service era. While
the southwest Missouri economy sputtered
with the rest of the country in recent years, and
Zenith Corp. pulled up stakes in Springfield at
a cost of 2,300 jobs in 1993, nonprofit Cox and
St. John's piled up big cash surpluses and
invested tens of millions of dollars in buildings
and state-of-the-art medical technology.

Shining new centers specializing in sports
medicine, heart disease, cataracts, cancer and the
aged sprang up around the hospitals. Most of the
buildings were built and owned by the medical
centers. These complexes of specialists fed the
hospitals with patients. In 1993 nonprofit St.
John's and Cox had surpluses of \$25.6 million
and \$15.2 million, respectively. St. John's re-
ported net assets of \$228 million, including
\$95.4 million invested in securities. James W.
Swift, president and CEO, was paid \$298,500.
From the sleek rescue helicopters parked outside
the trauma centers to the 20-foot high sculpture
in the lobby of the Mid-America Cancer Center,
the Medical Mile exudes affluence.

But some charge that the wealth came at the
expense of other local businesses. In 1991 the
Ozarks Area Business Group on Health pro-
posed to St. John's and Cox that they work out a
managed-care arrangement that would give
blanket discounts to their members. The hospi-
tals turned them down. "Basically they told us,
"Our prices are fine, thank you. We'll give you 3
percent off bills paid within 10 days like every-
body else," said Gordon C. Smith, the group's

president. The business group eventually nego-
tiated a managed-care contract with Springfield
Community Hospital, a small for-profit facility.
However, Springfield Community did not offer
services such as obstetrics and cardiology. Pa-
tients needing that care were referred to St.
John's or Cox, which charged full price.
A Scare From Washington

The Clinton health-care proposal frightened
the hospitals, according to Max Ludeke, ad-
ministrator of Springfield Community Hospital.
The medical centers understood that if they did
not create their own networks and health plans,
insurance companies and HMOs would

"You have two specialist-dominated
facilities trying to protect themselves. That's
what this is all about. . . . The hospitals are
trying to get control over physicians and the
physicians' revenue streams, before becom-
ing completely obsolete," Ludeke said. Occu-
pancy rates at St. John's and Cox, which has
806 beds, have been running between 50 per-
cent and 60 percent. The suddenness of the
hospitals' about-face on managed care some-
times caught doctors by surprise.

Last year Cox formed a partnership with the
48-doctor Ferrell-Duncan Clinic, the city's sec-
ond largest, to establish the not-for-profit Prim-
rose Health Care Services, a physician-hospital
organization. The network will include Ferrell-
Duncan, approximately 70 doctors that Cox
already employs, and as many as 200 indepen-
dent physicians with whom Cox is attempting to
work out a special affiliation agreement.

Cox's executive administrator, Larry D.
Wallis, said Primrose plans to sell its health-
care package to insurance companies or man-
aged-care companies. In a first for the hospi-

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Continued from Page 21

tal, Cox recently signed a managed-care agreement with Blue Cross to charge patients a flat fee for care, depending on their illness. Cox also is seeking approval from the state government to sell the Primrose health plan directly to businesses, cutting out middlemen.

The buyouts have worked well for some physicians. In the fall of 1992, Stephen Hawkins and his two partners in the southern Missouri towns of Cabool and Willow Springs sold their practice and became employees of Cox. Cox paid a signing bonus and guaranteed the doctors' annual salary, along with incentives. Last year, they did \$1 million of business for Cox. Hawkins says the arrangement has let Cox take over the paperwork and freed him to concentrate on helping patients. "We didn't have the business acumen to handle these rapid changes," he said. Cox employs six of the seven doctors in Cabool and Willow Springs and managed the hospital in nearby Houston.

Wallis says Cox will not insist that physicians in his network be employed by Cox. But St. John's has adopted a strategy based on tight control over physicians and their patients, and will insist on employing most of those in its network, to be known as the Springfield Clinic.

St. John's officials turned down a request for an interview and declined to answer questions about the restructuring. The hospital last year stunned the local medical community by acquiring the assets of the city's largest clinic, Smith-Glynn-Calloway, and is attempting to lure most of its 107 doctors, along with numerous smaller group practices and clinics.

"They want to own every brick, every piece of mortar within a third of a mile," said a physician who works on the St. John's "campus," the

complex of medical buildings near the hospital because most medical buildings in Springfield either are or will be owned by the two medical centers, independent physicians would have trouble obtaining office space even if they wanted to stay separate from Cox or St. John's.

Under the contract offered to local doctors, the St. John's board would review and adjust physicians' salaries every year. Part of their annual compensation would be based on "achievement of certain productivity targets, cost savings, patient satisfaction requirements, quality and service improvements, and other factors related to the physician's professional performance." Physicians would also have to agree to the "noncompete" clauses providing for penalties if they returned to local private practice. Though standard in Missouri, these clauses were not a major issue for the medical community until recently because so few doctors were employed by hospitals or health plans.

But physicians are divided about what to do. When a group of senior physicians on the St. John's staff broached the idea of forming an independent physicians' group last year, hospital officials reportedly told the doctors to decide which side they were on, sources say.

"Let's just say they weren't real receptive," said a physician who asked not to be identified. "It didn't fit into their plans." The doctors did not pursue the idea, sources said. At a May 24 meeting of the Springfield-based Greene County Medical Society, Shaeffer drew a round of applause after describing himself as "a rebel with a cause—but without an organization."

"The bottom line is I don't know what to do. It really affects your life profoundly, because I can't project what my income will be," said Shaeffer, who is 52. He said he ultimately may

sign with St. John's, in order to keep together the group practice in which he works.

Meanwhile, at least 26 other doctors have chipped in \$500 to \$1,500 to a group headed by obstetrician/gynecologist Mark Tendler, to look into "independent practice associations," a type of alliance that doctors have used elsewhere to gain leverage in the managed-care market. However, antitrust laws make it difficult, though not impossible, for groups of doctors to bargain on prices and services.

"The specialists have a real shock coming," said Robert Egbert, an internist who once worked for Kaiser Permanente in Los Angeles, a health maintenance organization that employs its doctors. As long as insurance companies were reimbursing hospitals for expensive procedures and surgery with almost no questions asked, specialists were a key source of hospital revenue. St. John's and Cox have 24 and 16 cardiologists on their staffs, respectively. But in a system in which hospitals get a flat fee for each patient enrolled, the incentive will be to cut back on procedures. With fewer procedures, fewer specialists may be needed in a hospital's network.

Whether the rivalry between St. John's and Cox will leave room for competing health plans remains to be seen. Humana Inc., which sells managed-care plans in 13 states and the District of Columbia, opened a Springfield office last year. Springfield Community Hospital's Ludeke said he hopes to add to his network of employed physicians, using doctors left out of the St. John's and Cox networks. "I'm not intimidated or overwhelmed by those two giants," he says. But HealthTrust, a Nashville-based hospital chain that recently acquired Springfield Community as part of its purchase of a smaller chain, has not disclosed its plans for the hospital.

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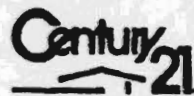
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In Brief

Allegheny Hospital has granted active medical staff privileges to Drs. Mukul Bhatnagar, Rodney Bingham, and Mark E. Lipitz. Bhatnagar specializes in angioplasty and pacemaker insertion, Bingham in electrodiagnosis, and Lipitz in clinical neurophysiology.

Twelve area companies recently participated in the Corporate Cup Challenge. The DuBois Area YMCA, DuBois Regional Medical Center, and Sunny 99 sponsored the event, which provided the opportunity for friendly competition and team spirit among area businesses. The events included a tug of war, participation fitness workout, obstacle course, team spirit event, CEO challenge, banner-making contest, basketball shootout, 6-on-6 volleyball, and 1-mile team relay.

DuBois Regional Medical Center has added Dr. James K. Fugate, Jr., a pediatrician, to the hospital's medical staff. Also the hospital recently held a memorial service in memory of patients who died between March 1, 1994, and Aug. 31, 1994.

Frick Hospital and Community Health Center, which has provided 24-hour advanced life support since September 1988, recently replaced its 930 Mobile Medic Unit.

"The Mobile Unit on the average responds to 60 or 80 calls a month," says Dennis Collins, manager of Frick's Emergency Department, "which has resulted in many positive outcomes for patients involved in an emergency situation."

Dr. Christine R. Blair has joined the practice of Dr. Shafie Y. Twal of Indiana.

Lee Hospital recently became the first Johnstown hospital to offer VersaPulse selectholmium arthroscopic laser surgery. "Lee continually strives to be a front-runner in the effort to provide the most cost-effective and state-of-the-art technologies and procedures available to our community," says John W. Ungar, president and CEO of Lee.



John W. Ungar

Blaine E. Lester, radiology administrator at Lee, has been named national vice president of the American Healthcare Radiology Administrators.

Mercy Regional Health System has added three physicians in hospital-based specialties. Dr. Scott Marlowe is an imaging specialist, Dr. John Dittl is a psychiatrist, and Dr. John Martin joined the Emergency Center. The hospital also granted staff privileges to Dr. Michael Humphrey, an endocrinologist, and Dr. Jane Rowe, a dermatologist.

Drs. Gregory J. Fulchiero and Henrik Mike-Mayer have formed Central Pennsylvania Orthopedic Specialists and have joined in a working association with University Orthopedics in State College.

Dr. Ezzat Abdelmalek has assumed the position as medical director of Pathways at Mercy Regional Health System. Pathways, which opened in July, offers mental health programs for older adults.

Staff at Somerset State Hospital recently provided more than \$6,700 in donations to indigent patients and their families.

Dr. Riad Saradar, a member of the Uniontown Hospital medical staff, has been elected to Fellowship in the American College of Physicians.

Dr. Louis D. Nichamin of the Brookville-based Laurel Eye Clinic recently gave courses in advanced techniques for phaco-emulsification at the American Society of Cataract and Refractive Surgery meeting. Nichamin also was nominated to the society's Scientific Advisory Board.

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or to keep together the works.

Other doctors have to a group headed by Mark Tendai, to active associations. Doctors have used ge in the managed-trust laws make it visible, for groups of ces and services.

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"I'm not intimidated

two giants," he says.

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hospital.

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R/T air, hotel,

\$ p/p double occ.

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nights/4 days.

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

February 28, 1995

Dr. Willeam A. Choby
1905 Bates Drive
Johnstown, PA 15905

RE: MUR 4188

Dear Dr. Choby:

This letter acknowledges receipt on February 21, 1995, of your complaint alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"). The respondent(s) will be notified of this complaint within five days.

You will be notified as soon as the Federal Election Commission takes final action on your complaint. Should you receive any additional information in this matter, please forward it to the Office of the General Counsel. Such information must be sworn to in the same manner as the original complaint. We have numbered this matter MUR 4188. Please refer to this number in all future communications. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Mary L. Taksar ESB

Mary L. Taksar, Attorney
Central Enforcement Docket

Enclosure
Procedures

96043724739



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 28, 1995

Robert C. Ondick, Treasurer
Murtha for Congress Committee
551 Main Street
Johnstown, PA 15901

RE: MUR 4188

Dear Mr. Ondick:

The Federal Election Commission received a complaint which indicates that the Murtha for Congress Committee ("Committee") and you, as treasurer, may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 4188. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against the Committee and you, as treasurer, in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

96043724740

If you have any questions, please contact Alva E. Smith at (202) 219-3400. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,

Mary L. Taksar by ESB

Mary L. Taksar, Attorney
Central Enforcement Docket

Enclosures

1. Complaint
2. Procedures
3. Designation of Counsel Statement

cc: The Honorable John P. Murtha

96043724741



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

February 28, 1995

**Raymond Ankney, Chief Executive Officer
Ankney Publishing, Inc.
193 Quaker Avenue
Johnstown, PA 15905**

RE: MUR 4188

Dear Mr. Ankney:

The Federal Election Commission received a complaint which indicates that Ankney Publishing, Inc., Central Pennsylvania Medicine, Western Pennsylvania Medicine, and Ankney Public Relations may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 4188. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

96043724742

If you have any questions, please contact Alva E. Smith at (202) 219-3400. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,

Mary L. Taksar by EMB

Mary L. Taksar, Attorney
Central Enforcement Docket

Enclosures

1. Complaint
2. Procedures
3. Designation of Counsel Statement

96043724743



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 28, 1995

**Newell Smith, Chief Executive Officer
Operation Assistance, Inc.
425 Center Street, Rear
Boswell, PA 15531**

RE: MUR 4188

Dear Mr. Smith:

The Federal Election Commission received a complaint which indicates that Operation Assistance, Inc. may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 4188. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against Operation Assistance, Inc. in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

96043724744

If you have any questions, please contact Alva E. Smith at (202) 219-3400. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,

Mary L. Taksar by ESB

Mary L. Taksar, Attorney
Central Enforcement Docket

Enclosures

1. Complaint
2. Procedures
3. Designation of Counsel Statement

96043724745

Western PA Medicine

A newspaper for health care professionals

2 Jefferson Street, Johnstown, PA 15905

(814) 288-4458

March 10, 1995

Ms. Mary L. Taksar, Attorney
General Counsel's Office
Federal Elections Commission
Washington, DC 20463

Dear Ms. Taksar:

I received your February 28, 1995, letter regarding MUR 4188, a complaint from Dr. Willeam A. Choby regarding "in-kind contributions" to Representative John Murtha's reelection campaign. The complaint alleges that running a picture of the congressman in *Central PA Medicine*, a monthly trade publication for 3,500 health professionals, may constitute an illegal campaign contribution.

First of all, I'd like to emphasize that no employee or stockholder of Ankney Publishing has ever made a contribution to Representative Murtha or his campaign. Also, Ankney Publishing has never received a penny from Representative Murtha or his campaign for advertising or other services.

Moreover, Dr. Choby failed to give you some important background information that shows the true reason for his complaint with the FEC. Dr. Choby is a former advertiser who fell months behind on his advertising bill (Exhibits 1-4). After months of nonpayment, we turned the account over to a collection service headed by Bernard J. Mroczka (Exhibit 5). Dr. Choby then tried to avoid paying his debt by claiming that the picture of Representative Murtha in the July issue entitled him to free advertising. (Exhibit 6). Dr. Choby, in a hand-written note on exhibit 5, states, "This is a contested claim under the free and equal time rules for political candidates."

After Dr. Choby still refused to pay, Ankney Publishing filed suit in district court (Exhibit 7). Dr. Choby paid most of the bill before the court appearance, but we did have to go to court to collect the balance. The district court realized that newspapers are not covered by Public Law 86-677, the equal-time statute, and ruled against Dr. Choby (Exhibit 8). The district court also rejected Dr. Choby's other five excuses for not paying his debt (Exhibit 9).

I'd now like to address the many inaccuracies and half-truths in Dr. Choby's complaint:

- "I believe that the excessively large photograph of incumbent Congressman and candidate for reelection John P. Murtha on Page 14 of the July issue of *Central Pennsylvania Medicine* that was included in a promotional 'news' story for a private company while lacking public significance represented either a business promotion by Murtha or an undisclosed advertisement for Murtha by either one of these private corporations."

In our July 1994 issue, *Central PA Medicine* ran a feature story on Operation Assistance, a growing local business that provides first-aid services of interest to our readers, the health professionals (Exhibit 10). Representative Murtha attended the company's groundbreaking and was quoted in the story. The reason why Representative Murtha's picture ran with the story is not real complicated. I went to our photo file and we had pictures for two of the three people quoted in the story: Newell Smith and Representative Murtha. However, the picture of Mr. Smith was too blurry to be used. In the newspaper business, the person whose picture is in the file is whose picture appears with the story. It is certainly not a political statement or "in-kind contribution."

I also disagree with Dr. Choby's position that a newspaper makes an "in-kind contribution" to a

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

MAR 14 11 54 AM '95

9 6 0 4 3 7 2 4 7 4 6

9 6 0 4 3 7 2 4 7 4 7

politician by running a picture or story. If this were the case, every newspaper in the country would be defending its actions before the FEC. Moreover, Central PA Medicine and Western PA Medicine would have made illegal contributions to Dr. Choby, Representative Murtha, Former Pennsylvania Governor Robert Casey, Senator Harris Wofford, Senator Arlen Specter, and President Bill Clinton (Exhibits 11-15).

• *"The 'news' story theory would be consistent with the policy of Ankney Publishing Inc. to write promotional 'news' about a business in exchange for the purchasing of advertising from Ankney Publishing Inc."*

Like almost all newspapers in the country, Central PA Medicine and Western PA Medicine have occasionally published feature articles on advertisers. We probably have done this five times in 18 months, although it is certainly not "policy." It is also both legal and ethical.

However, Dr. Choby has deliberately attempted to mislead the FEC on this issue. For example, he claims that the "Lifestyles" article in the January issue is another example of Ankney Publishing's "promotional" news. This is ridiculous. The company purchased a full-page advertisement and wanted to fill its space with a combination of information on the company and an advertisement. All of this material was placed inside a clearly marked advertising supplement (Exhibit 16). In fact, you'll notice that the publication's title, Western PA Medicine, appears at the top of every page, except that month's advertising supplement. We do this to avoid any confusion between the supplement and regular editorial pages.

Dr. Choby goes on to claim that Dennis Calnan of Camco declined our offer of "news for money" and did not appear in the supplement. This is absolutely not true. Mike Arnall, owner of Camco, was asked to do an interview for the January issue. However, Mr. Arnall could not fit the interview into his busy schedule. It is also interesting to note that Dr. Choby failed to disclose that Mr. Calnan is his business partner in Health Market Associates, the company we were forced to sue to collect payment (Exhibit 17).

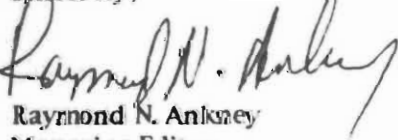
Finally, Dr. Choby uses an advertisement in the January 1995, issue for Ankney Public Relations, a separate corporation, to demonstrate "the point being that Mr. Ankney sold 'news for money' as a policy for Ankney Publishing Inc." In fact, we established Ankney Public Relations in October 1994, and have worked for just two clients in five and a half months. Neither of these clients is an advertiser.

• *"It is also noteworthy that the political advertisements placed by this writer in the very same publication were required to contain the disclaimer 'paid for by the Choby '94 committee.'"*

This also is untrue. Enclosed is a letter from Wendy DeLisa Ankney, my wife and marketing director, that shows Dr. Choby created the layout for the advertisement (Exhibit 18). Dr. Choby acknowledges this fact in his December 6, 1994, letter (Exhibit 9) where he wrote: "The balance should have been charged to the Choby '94 campaign since the advertisement clearly stated that it was 'Paid for by the Choby '94 committee.' In addition to this public statement, the committee had already paid \$90 on one occasion. Furthermore, Bernie had been specifically instructed to bill the committee when I changed the ad from Health Market Associates to the Choby '94."

I hope this answers any questions you have about Dr. Choby's complaint regarding a possible illegal campaign contribution. I think it is obvious from reviewing the enclosed materials that Dr. Choby is a disgruntled former advertiser who filed a baseless and misleading FEC complaint after losing a court case. However, if you need additional information, please feel free to call me at (814) 288-4458. Also, please make sure to send subsequent correspondence to: Western PA Medicine, 2 Jefferson Street, Johnstown, PA 15905.

Sincerely,



Raymond N. Ankney
Managing Editor
Western PA Medicine

Western PA Medicine

The only newspaper covering Western Pennsylvania Medicine

2 Jefferson Street, Johnstown, PA 15905

(814) 288-4458

PAST DUE INVOICE

March 23, 1994

Dr. Willeam Choby
Health Market Associates
328 Budfield Street
Johnstown, PA 15904

Dear Dr. Choby:

Thank you for advertising in *Central PA Medicine*. Our records indicate that you are now past due for January 1994-\$135, February 1994-\$90, March 1994-\$90, and the April pre-pay amount of \$90. The total amount now due is \$405. Please pay this amount in full by April 6*. After April 6, the amount will be \$411.08.

If you have any questions about your account, please feel free to call me at (814) 288-4458.

Sincerely,

Bernie Ankney
Managing Editor
Central PA Medicine

*A 1.5% monthly interest charge is added to outstanding accounts.

96043724748

Exhibit 2

Western PA Medicine

The only newspaper covering Western Pennsylvania Medicine.

2 Jefferson Street, Johnstown, PA 15905

(814) 288-4458

INVOICE

July 28, 1994

Dr. Willeam Choby
Health Market Associates
328 Budfield Street
Johnstown, PA 15904

Dear Dr. Choby:

Thank you for advertising in *Central PA Medicine*. As your contract requires, in order to receive the prompt pay discount, \$90 is due by August 11*. You are also past due \$100 for the July issue which brings your total to \$190.

If you have any questions about your account, please feel free to call me at (814) 288-4458.

Sincerely,

Wendy DeLisa Ankney
Director of Marketing
Central PA Medicine

*A 1.5% monthly interest charge is added to outstanding accounts.

96043724749

Exhibit 3

Western PA Medicine

The only newspaper covering Western Pennsylvania Medicine

2 Jefferson Street, Johnstown, PA 15905

(814) 288-4458

INVOICE

August 30, 1994

Dr. Willeam Choby
Health Market Associates
328 Budfield Street
Johnstown, PA 15904

Dear Dr. Choby:

In order to provide more timely information to our readers, *Western PA Medicine* combined its August and September issue. Because of combining these two months, your contract will run until November 1994 not October 1994. The ad deadline for the October issue is September 20.

We also renamed the publication from *Central PA Medicine* to *Western PA Medicine*. This was because of the perception that it was a Harrisburg-based publication instead of a newspaper covering Cambria and surrounding counties. Also, our office has moved to:

2 Jefferson Street
Johnstown, PA 15905

The bill for advertising in the October issue is \$90 due by September 14*. You are also past due for the Aug./Sept. issue which brings your total to \$190. Since we did not hear from you, we ran the same ad from last month and we will run it again this month if you do not notify us differently.

If you have any questions about your account, please feel free to call me at (814) 288-4458.

Sincerely,

Wendy DeLisa Ankney
Director of Marketing
Western PA Medicine

*A 1.5% monthly interest charge is added to outstanding accounts.

96043724750

Western PA Medicine

The only newspaper covering Western Pennsylvania Medicine

2 Jefferson Street, Johnstown, PA 15905

(814) 288-4458

PAST DUE INVOICE

October 10, 1994

Dr. Willeam Choby
Health Market Associates
328 Budfield Street
Johnstown, PA 15904

Dear Dr. Choby:

The bill for advertising in the November issue is \$90 due by October 24*. You are also past due for the Aug./Sept. and October issues which brings your total to \$290. Since we did not hear from you, we ran the same ad from last month and we will run it again this month if you do not notify us differently. Also, failure to pay the past due account will result in the sending of a certified letter and handing your account over to a collection agency.

If you have any questions about your account, please feel free to call me at (814) 288-4458.

Sincerely,

Wendy N. DeLisa
Director of Marketing
Western PA Medicine

*A 1.5% monthly interest charge is added to outstanding accounts.

96043724751

November 10 1994

Dr. William A. Choby
Health Market Associates
328 Budfield Street
Johnstown PA 15904

CLAIM 237-94

Dear Dr. Choby:

Your delinquent account with Ankney Publishing, Western PA Medicine, 2 Jefferson St., Johnstown PA in the amount of \$309.09 which consists of \$300.00 advertising for August-September-November 1994; and \$9.09 finance service charges, has been turned over to us for collection.

I ask that full payment of \$309.09 be remitted by check, money order or cashiers check, made payable to Elibern Collection Service, to be received by us no later than November 22nd 1994.

Failure to remit your debt owed for services rendered will result in further proceedings which will be an additional cost to you; such as magistrate fees, court costs, and also the embarrassment of such proceedings.

If you have any further questions regarding this letter, please contact me. If not, I expect to to receive your check by date mentioned.

Sincerely,

Bernard J. Mroczka
Bernard J. Mroczka
President

BJM/s

cc: Western PA Medicine

Exhibit 5

Good luck. This is a Contested claim under the Free & Equal rule for political choice

*Rec'd 11/14
EMM
11/21 CONTEST'S
PAYMENT
11/28 refuses to
pay - was
pou-noon camp
spot given
him.*

9 6 0 4 3 7 2 4 7 5 2

ELIBERN

Elibern Collection Service, 160 Barron Ave. - 2nd Floor, Johnstown, PA 15906, 814/539-1364

Exhibit 6

Bernard J. Mroczka

11/30/94

BERNIE

I SUGGEST THAT YOU
FILE THIS AS A WRITE-OFF
FOR THE END OF THE YEAR.

REFUSES TO PAY - CLAIMS IT WAS
A POLITICAL CAMPAIGN SPOT AD/
WHICH WAS GIVEN TO HIM.

96043724753

Magisterial District Number 47 - 02
 DJ Name: Hon. John H. Barron
 Address: 110 Sunray Drive
 Johnstown, PA 15005
 Telephone No. (412) 235-2377

PLAINTIFF: RAYMOND N. ANKENY, AGENT FOR:
 ANKENY PUBLISHING, INC.
 Name Address: CENTRAL PA MEDICINE
 1 JEFFERSON STREET
 JOHNSTOWN, PA. 15005

COMPLAINT NUMBER: CV-0780128-24
 DATE FILED: 12-7-94

DEFENDANT(S): vs.

FILING COSTS	\$	AMOUNT	DATE PAID
SERVICE COSTS	\$	1.00	12-7-94
J.C.P.	\$	1.50	

D-1 Name: WILSON, CHOSY
 Address: 323 BUDFIELD STREET
 JOHNSTOWN, PA. 15004
 D-2 Name:
 Address:

TOTAL \$

TO THE DEFENDANT: The above named plaintiff(s) asks judgment against you for \$ 309.09 together with costs upon the following claim (Civil Fines must include citation of the statute or ordinance violated):

DEFENDANT SIGNED AN ADVERTISING CONTRACT WITH US IN OCTOBER, 1993. DR. CHOSY HAS REFUSED TO PAY DESPITE REPEATED EFFORTS TO COLLECT.

I, RAYMOND N. ANKENY

verify that the facts set forth in this complaint are true and correct to the best of my knowledge, information, and belief. This statement is made subject to the penalties of Section 4904 of the Crimes Code (18 Pa. C.S.A. §4904) related to unsworn falsification to authorities.

Raymond N. Ankeny
 (Signature of Plaintiff or Authorized Agent)

Plaintiff's Attorney: _____

Address: _____ Telephone: _____

HEARING IS SCHEDULED BY DISTRICT JUSTICE AS FOLLOWS:

LL 110 SUNRAY DRIVE, JOHNSTOWN, PA. 15005

Location: DECEMBER 27, 1994 - 10:00 A.M.

Date Time

IF YOU INTEND TO ENTER A DEFENSE TO THIS COMPLAINT, NOTIFY THIS OFFICE IMMEDIATELY AT THE ABOVE TELEPHONE NUMBER. YOU MUST APPEAR AT THE HEARING AND PRESENT YOUR DEFENSE. UNLESS YOU DO, JUDGMENT WILL BE ENTERED AGAINST YOU BY DEFAULT.

IF YOU HAVE A CLAIM against the plaintiff which is within district justice jurisdiction and which you intend to assert at the hearing, you must file it on a complaint form at this office at least (5) days before the date set for the hearing. If you have a claim against the plaintiff which is not within district justice jurisdiction, you may request information from this office as to the procedures you may follow.

Mag. Dist. No.: **47-1-02**
Case Name: **JOHN W. BARRON**
Address: **110 SUNRAY DRIVE
JOHNSTOWN, PA**
Telephone: **(814) 255-2677** **15905**

NOTICE OF JUDGMENT/TRANSCRIPT

PLAINTIFF: **ANKNEY PUBLISHING, INC..**
2 JEFFERSON STREET
JOHNSTOWN, PA 15905

DEFENDANT: **CHOBY, WILLEAM A.**
328 BUDFIELD STREET
JOHNSTOWN, PA 15904

ANKNEY PUBLISHING, INC./R. N. ANKNEY
2 JEFFERSON STREET
JOHNSTOWN, PA 15905

Docket No.: **CV-0000126-94**
Date Filed: **12/05/94**



THIS IS TO NOTIFY YOU THAT:

☒ Judgment was entered for: (Name) **ANKNEY PUBLISHING, INC..**

☒ Judgment was entered against: (Name) **CHOBY, WILLEAM A.**

In the amount of \$ **37.50** on: (Date) **1/09/95**

☐ Damages will be assessed on: (Date & Time) _____

☐ This case dismissed without prejudice.

☐ Possession granted.

☐ Possession granted if money judgment is not satisfied within thirty days.

☐ Possession not granted.

☐ Levy is stayed for _____ days or ☐ generally stayed.

☐ Objection to levy has been filed and hearing will be held:

Amount of Judgment	\$.00
Judgment Costs	\$37.50
Interest on Judgment	\$.00
Attorney Fees	\$.00
TOTAL	\$37.50

Date:	Place:
Time:	

ANY PARTY HAS THE RIGHT TO APPEAL WITHIN 30 DAYS OF THE DATE OF JUDGMENT BY FILING A NOTICE OF APPEAL WITH THE PROTHONOTARY / CLERK OF THE COURT OF COMMON PLEAS, CIVIL DIVISION.

JAN 10 1995 Date *[Signature]*, District Justice

I certify that this is a true and correct copy of the record of the proceedings containing the judgment.

_____, Date _____, District Justice

My commission expires first Monday of January, 2000.

SEAL

Exhibit 87

Choby'94 Committee
328 Budfield Street
Johnstown, Pa. 15904

December 6, 1994

Mr. Raymond Ankney
c/o Ankney Publishing, Inc.
2 Jefferson Street
Johnstown, Pa. 15905

Dear Mr. Ankney,

I received your notice of civil action against me for a past due balance of \$309.09. I must say that I am extremely disappointed with Bernie and you, particularly after having purchased nearly \$1,200 worth of advertisements with your business.

You do have some significant problems in your civil complaint that could cause you to lose your case in court. I have taken the liberty of enumerating them for you.

#1. The balance should have been charged to the Choby'94 campaign since the advertisement clearly stated that it was "Paid for by the Choby'94 Committee". In addition this public statement, the committee had already paid \$90.00 on one occasion. Furthermore, Bernie had been specifically instructed to bill the committee when I changed the ad from Health Market Associates to the Choby'94.

#2. You filed in the wrong jurisdiction. The contract was signed and executed in Richland not Westmont.

#3. Bernie ignored my concerns that you were giving free space to my opponent while accepting my money for my advertisement. As customer, I had a right to voice my objections to your special favors to one of my competitors. You then ignored the concerns of a paying customer in favor of placing Murtha's picture in an article that referred to him in one sentence only. Because Murtha's picture lacked any real newsworthiness or significant relevance to the story, I should have been given equal time. I have yet to decide whether I should file a complaint with the Federal Election Commission over this possible violation.

#4. You changed your address without notifying me.

#5. You ran the ad in the October/November issue without my consent.

96043724756

96043724757

#6. The campaign checkbook was in the possession of my campaign manager for much of the last month of the campaign. Also, my campaign treasurer needed it for filing FEC reports. I have only recently got it back from him.

In addition to the aforementioned legal errors you have damaged my reputation by foolishly initiating this action without doing your homework. I should be the one who is suing you!

As one who has invested over \$50,000 of my own money in a campaign to restore common sense to our community, I am extremely disappointed in your poor sense of fair play. While you complain about \$300 dollars, I have had to write off \$15,000 worth of bills this year for patients who moved without a forwarding address. Meanwhile, I am still waiting for \$20,000.00 in payment from the PA. Department of Public Welfare from as far back as June 1994. I have also been tolerating 3 years of legal nonsense to receive payment for \$30,000 for damages to my office and business. In addition, I have recently sent the Westmoreland County Sheriff out to seize \$2,250 worth of property from another professional who is ignoring a court decision against him.

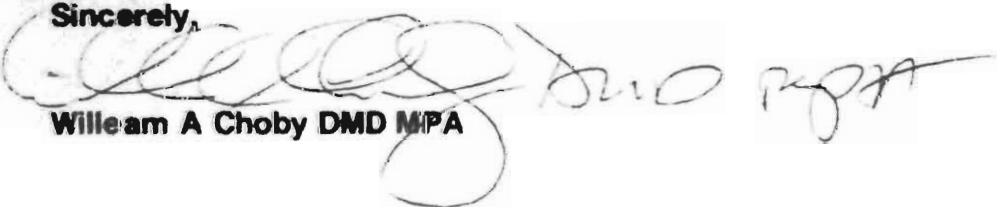
And you think you have problems with overdue accounts?

Your foolishness have cost you my respect and my future advertising. Burning bridges behind oneself is a poor way to start any business.

Let me give you a little bit of advice; listen to you customers, keep them happy and they will be back some other day.

Enclosed you will find a check for \$309.09 from the Choby'94 Committee which represents payment in full. Good luck finding new advertisers.

Sincerely,


William A Choby DMD MPA

14 Central PA Medicine July 1994

Operation Assistance Provides Advanced Life Safety Services

A Boswell, Pennsylvania company, Operation Assistance Inc., offers the most comprehensive life safety services in the United States, an official reports.

Newell Smith, president of Operation Assistance, says customers receive complete medical emergency, fire, and security services. Operation Assistance provides customers with control panels, keypads, two-way voice communications, motion detectors, smoke detectors, and medical panic buttons.

"When any of these devices are activated by customers, smoke, or an intruder," he says, "the alarm transmits a signal via telephone to our central station in Boswell. Inside of the computer is programmed all of the pertinent information about the member's house. If it's a medical emergency, we have complete histories for all occupants, including family doctors, hospitals, medications, blood types, and allergies. We can transmit this information directly to the rescue squad en route."

Operation Assistance also works with customers on fire evacuation plans. The two-way voice system allows dispatchers to remind occupants of the plan during a fire.

"At 2 o'clock in the morning," Smith relates, "if your smoke detector went off, our dispatcher would read the fire evacuation plan and remind you of what you're supposed to do and where you are supposed to meet outside."

Smith adds that the two-way voice system allows dispatcher to tell responding police officers of "exactly what's happening on the other side." Operation Assistance is the only company in Pennsylvania to offer this life-saving service.

"If it's a duress situation," Smith continues, "we tell our customers to enter an alternate code into the keypad. Our operators don't say anything, but they listen. Everything that happens is tape recorded and is admissible into court. If a suspect is apprehended, his voice can be matched to our recording and this information can be used as evidence."

Smith notes that Operation Assistance has the lowest fees for any life safety company in the country. Operation Assistance provides the equipment for no money down and a monthly payment of \$25.

"I don't think there is anybody in the nation who can compete with our product," he advises. "I know of all the other alarm companies in the area and none of them can even get close to our price."

The company's goal, Smith continues, is to make life safety services available to the majority of Americans. In the past high instal-



Smith: Company helps disabled.

lation fees prevented working-class families from purchasing the protection.

"We have insisted that the price of our services be lower than a person's monthly cable bill," Smith says. "Most cable bills are \$35 a month. If you are willing to pay \$35 a month to watch television and own nothing,

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OPERATION ASSISTANCE

then wouldn't you pay \$25 to protect your home, your family, and all of your irreplaceable possessions?"

Smith notes that Operation Assistance plans to open new offices throughout the northeast United States. An Altoona office opened in July, and 20 branch offices are planned, including sites in Baltimore and Philadelphia.

"We estimate that in six months," he says, "we'll be adding 2,000 to 3,000 new members per month."

Moreover Operation Assistance has made a commitment to hiring disabled Americans for the dispatch station.

"That is one of the best programs we have," says Brenda Smith, executive director of Operation Assistance. "Our employees are excellent. For each 5,000 customers who join the system, we'll put another dispatcher on duty. Eventually we'll have 27 dispatchers and they'll all be physically challenged."

Representative John Murtha, Pennsylvania Democrat, praises Operation Assistance for its commitment to the disabled. "What I like about this," he says, "is not only do you provide security, but you also provide jobs for handicapped people. That's good to hear."

Newell Smith adds that the company offers free seminars to neighborhood watch programs, church groups, and senior citizen clubs. Anyone interested can call 800-335-3279.

Drifter's Hospital Case Spurs Euthanasia Battle

By Sally Johnson

Ronald Comeau was in a "persistent vegetative state," according to the Southwestern Vermont Medical Center, when the decision was made to withdraw the feeding and water tubes that were keeping him alive.

To most people those words conjured a patient lying still, eyes closed, dead but for his breathing. But that was before videotapes of the emaciated Mr. Comeau were aired on the evening news in late November. The video clearly showed Mr. Comeau in his hospital bed with wide-open eyes, pointing, grimacing, and hugging a stuffed animal. At times he appeared to be laughing, at other times to be silently screaming. In short Mr. Comeau seemed very much alive.

"I was amazed," says one Vermont woman who saw the tape. "That's not at all what I expected to see. I had to wonder what they were doing down there at that hospital."

So did Mr. Comeau's family. Alerted by a story about Mr. Comeau in their hometown newspaper, his brothers hastened to Bennington to see if the patient was indeed the sibling they hadn't seen in many years.

"I was expecting to see a tomato with a bunch of tubes coming out of him," says Ronald Comeau, Ronald's older brother. "When we walked in the room, he opened his eyes, smiled, cried, shook hands with every-

one. We were elated. And then we began wonder what was going on."

The story of how Mr. Comeau almost came to die is seen as a cautionary tale by the right-to-life proponents who intervened in his case, setting in motion a court case—still unresolved—that went to the Vermont Supreme Court.

They say it is a taste of things to come in a resource-conscious society in which costs will outweigh compassion in medical decision. As a result they have asked the Vermont Legislature to pass laws that would ensure that such a case never happens again.

"We want to make it difficult, if not impossible, for the government to practice involuntary euthanasia," says Mike McHugh, a fundamentalist pastor who stepped in to stop the process.

But the hospital staff and the man, James Schaaf, who made the decision to pull the tubes, say their actions were motivated solely by compassion for Mr. Comeau and that their decision was correct in the context in which made. "I tried to do for that man what I would do for my son or my brother or even myself," says Mr. Schaaf. Mr. Comeau, a court-appointed guardian, "I am 68 years old, and I wouldn't want to live like that. He seemed without hope of any substantial recovery. It seemed better to let him die."

Common practice

To anti-euthanasia activists Mr. Comeau's story is an unusually visible example of a common practice in hospitals and nursing homes.

"The removal of food and fluids from nonliving patients happens every day," says Rita Marker, director of the International Anti-Euthanasia Task Force. "Over the last 10 years, there has been a redefinition of food and fluids provided through a tube as medical treatment. Therefore when you withdraw medical treatment from a nonrecovering patient, you remove the feeding tube. What's unusual about this situation is that someone brought it to the public's attention and, as a result, Mr. Comeau is still alive."

But Arthur Caplan, director of the Center for Bioethics at the University of Minnesota, says the notion of food and fluids as medical treatment is well-established and has been reaffirmed again and again by courts, including the U.S. Supreme Court in the Nancy Cruzan case.

"What's hard in this case," says Mr. Caplan, "has nothing to do with food and water. What's hard is for a guardian, who knows little or nothing about the person, to assemble as much information as he can about the person's life, then try to guess what the person might have wanted. But there is almost always court oversight in these cases, and I believe that sufficient and appropriate legal safeguards already exist—that the ones

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Health-Care Reform: A Provider's Point of View

By Dr. Bill Choby

Lately, the private health-care system has come into focus as being in need of repair. The media points to the private sector's inability to deal with patient access and rising costs. The public sector, some media members claim, must defend the oppressed public from greedy, rich doctors.

Dr. Bill Choby is president of Health Market Associates and a candidate for the republican nomination for the 12th Congressional District.

The politicians seized the opportunity to offer reform in exchange for power, taxes, and re-election.

Although the health-care system consumes \$900 billion per year or nearly 14% of the Gross National Product (GNP), the costs do not necessitate a total government take over. It is true that Americans spend a greater portion of their income on health care than other countries, but it is because Americans want it.

Who is to say that there is anything wrong with Americans spending their money on health care instead of something else?

Here are the facts as provided by Empower America, a conservative policy think tank whose ranks include former drug "czar" William Bennett, former secretary of Housing and Urban Development, Jack Kemp, and Representative Newt Gingrich, Georgia Republican.

1. One percent of Americans account for 43 percent of health-care costs, while 10 percent of Americans consume 70 percent of the total.

2. Eighty-five percent of Americans are covered by health insurance.

3. Seventy-one percent of Americans are covered by private insurance offered by employers as a tax-exempt benefit.

4. Medicare and Medicaid provide services for 14 percent of Americans.

5. Fifteen percent, or 36 million Americans, lack health insurance. However, 50 percent are reinsured within 4 months. Only 2 percent of Americans lack health insurance for more than two years.

6. No one can be denied access to critical care in hospitals that receive federal money.

Does the United States have a health-care crisis? No. But the uninsured have a real dilemma. The solution should begin with tax-exempt dollars. If the cost of insurance is excessive, people should be allowed to buy into the Medicaid program.

The unemployed should be able to buy into their employers' plan until they are enrolled into another one. The issue of insurers canceling coverage because of "preexisting



Choby: Most Americans covered by insurance.

conditions" could be solved by penalizing insurance companies for abandoning patients.

Where is the health-care problem that politicians are harping about?

The real issue is that insurance costs keep rising faster than the cost of living. Some of the factors that increase insurance costs are:

1. The cost of administering insurance plans approaches 12 percent of the premiums. These costs could be reduced by electronic billing via computers, a private sector solution.
2. Overutilization of benefits. The emergency room is for emergencies, not convenience.

Employers should seek to provide only catastrophic health-care insurance for their employees. Noncatastrophic care should be tax-deductible. Employers could further save on their costs by encouraging informed patient-consumer decisions.

3. The threat of malpractice lawsuits means practicing defensive medicine. The solution is tort reform.

4. A penny for prevention is better than thousands for a cure. Why don't the insurance plans pay for prevention? Perhaps because it could lead to lower premiums.

5. Deregulate the doctors. The cost of licensure requirements and regulations are eventually passed on to patients and insurers.

6. Reduce the liability costs for research and development on new technology and pharmaceuticals. In today's high-risk market,

companies require higher introductory prices to shield against future liability claims. The Food and Drug Administration should take notice.

The politically correct solutions proposed by liberal politicians include raising so-called sin taxes on unhealthy behaviors, such as smoking and drinking.

While these measures will discourage some from smoking and drinking, it makes about as much sense as placing a tax on condoms to pay for AIDS.

If the government cannot figure out a way to tax us into control, it may try to sneak in through the back door by mandates. The play or pay mandate could force private employers to buy into the government's version of insurance.

When none of the above are politically acceptable, expect to see a proposal that would use voluntary taxation, (i.e. a national lottery) to pay for health care.

The political spin doctors who say Americans need a government-run health-care system could not have the country's best interests in mind. Americans should consider the success of government-run housing before giving up the best health-care system in the world.

SAFE KIDS Coalition

The Blair County SAFE KIDS Coalition will sponsor a Bike Safety Day Rodeo on May 14 at the Station Mall in Altoona. The rodeo caps the coalition's in-school educational program on bicycle safety.

The maternal child nursing staff of Altoona Hospital established the Blair County SAFE KIDS Coalition this winter. Overall, SAFE KIDS has formed 140 state and local coalitions, including 10 chapters in Pennsylvania.

"Our common objective," says Sherri McDonald, coordinator of the coalition, "is to provide safer communities for children. Through education, enforcement, engineering, and evaluation, we hope to prevent injury from traffic accidents, fires and burns, drowning, choking and poisoning, and falls."

With the assistance of other area businesses and service organizations, the Blair County SAFE KIDS Coalition hopes to become known as the single best source of childhood injury prevention information and action in the county.

Altoona Hospital offers office space, clerical support and financial accounting to the coalition. The Blair County SAFE KIDS Coalition seeks grants to defray costs from special events and programs. For example the Pennsylvania Department of Health funded part of the bicycle educational project.

Central PA Medicine



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A newspaper for health-care professionals

October 1993

Providing Health Care

By Allen S. Noonan
Pennsylvania Secretary of Health

As Secretary of Health for the nation's fifth largest state and as an officer with the U.S. Public Health Service for 20 years, I have seen the devastating impact that inadequate health care has on people, especially those who are unemployed or underemployed.

Currently there are 1.2 million citizens of the Commonwealth who do not have health insurance. These people have no access to preventive health measures that can reduce the chance of them becoming gravely sick in the future. Often these individuals receive treatment in an emergency room only when they are seriously ill. This not only hurts the individual but inflates the cost of health care for all.

To end this tragic situation and to reduce the cost of health care, Governor Robert Casey has proposed the "Pennsylvania Health Security Act," which would provide universal

coverage to all Pennsylvania citizens.

This proposal was developed with the recommendations and input of hundreds of people, groups, and organizations. Public hearings were held statewide so Governor Casey could hear firsthand the issues, problems, and concerns about health care and health insurance. The governor's ultimate goal is to establish an adequate health-care system to serve all citizens, assuring them of basic health care to live full and rewarding lives.

The "Pennsylvania Health Security Act" meets that objective, offering health security to those with no insurance, to those who are economically hanging onto their health insurance by their fingertips, and to those who are afraid to change jobs for fear of losing their health insurance. By providing health insurance coverage to all, we will not only be fulfilling a basic human right—we will better be able to contain health-care costs.

We will accomplish cost containment by



Noonan: No tax increase under the plan

promoting competition between health-care networks and providers, cutting administrative costs, emphasizing preventive care, discouraging the overuse of medical services, and encouraging cost-effective decisions by consumers and providers.

The Pennsylvania Health Security Act addresses all those areas. Similar to President

Please turn to Page 4



Kolff: Centri-Safe valve prevents dangerous backflow

Conemaugh Surgeon Designs Device For Heart-Lung Machine

The inventors of the first artificial heart have developed a new valve to make open heart surgery safer.

Dr. Jack Kolff, Chairman of the Department of Surgery at Conemaugh Memorial Hospital, and his father Dr. Willem J. Kolff, a retired physician and researcher, collaborated at the University

to create the artificial heart that allowed Barney Clark, the first recipient, to survive 112 days. Dr. Willem Kolff also developed the heart-lung bypass machine, artificial kidney, intra-aortic balloon pump, and has been associated with the artificial ear and artificial arm projects.

The Kolffs now have created a safety valve for the heart-lung bypass machines used during open heart surgery.

Dr. Jack Kolff says the Centri-Safe valve was designed to prevent dangerous back-flow that can occur because of electrical outages or centrifugal bypass pump failures.

"The backflow," he explains, "creates a dangerous siphon that sucks blood from the aorta

Providing Health Care for All Pennsylvanians

Continued from Page 1

Clinton's health-care reform proposal, Pennsylvania's plan gives consumers the freedom to choose a family physician, insures fair distribution of health-care services, maintains and extends the quality of health care and restrains health-care costs.

The system will be administered by a board called the Health Security Corporation through eight statewide health-care regions. Within those regions health-care networks comprised of hospitals, physicians, other health-care providers, clinics, and other facilities will be established to provide basic medical care. A guaranteed benefits package will be offered covering such areas as immunizations, mammography screening, drug and alcohol treatment, and a comprehensive range of child and maternal health services.

The plan calls for no increase in taxes. Instead, large employers would pay 90 percent of the insurance premium for each full-time worker and 45 percent for each part-time worker. Full-time employees would pay up to 10 percent of the premium cost, and part-time employees would pay up to 55 percent. Companies with 25 or fewer workers

would pay 7 percent of their eligible payroll for insurance premiums. Unemployed workers would qualify for assistance from the "Health Security for Unemployed Pennsylvanians Account," which will be created under the plan.

Low-income families would pay little or nothing, based on the level of their income. Families of four with incomes up to \$35,875 (250 percent of the federal poverty level) would receive free or subsidized coverage through a "Low Income Assistance Account."

Legislation accompanying the Pennsylvania Health Security Act that reauthorizes the Health Cost Containment Council has already been approved. The Council gathers health-related information so that individuals and groups can make an informed choice when choosing a health-care network.

A third bill that is necessary to make the health-care-reform package work would place a ban on physician self-referrals. Studies have concluded that self-referrals create unnecessary overutilization of health-care services.

A fourth bill provides a consumer bill of rights that states health-care coverage cancellation can only occur in cases of fraud or



Casey: Pennsylvanians need better coverage.

nonpayment of premiums while another bill proposes streamlining the medical malpractice system to curb litigation and insurance costs for doctors.

The Health Security Act demonstrates that Pennsylvania is a step ahead of the rest of the nation and that we are doing much more than talking about health-care reform. The Pennsylvania Health Security Act reflects our commitment to the future and sets the stage for insuring the public health of our Commonwealth.

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Central PA Medicine

Wofford Opposes Bureaucratic Health System

By Harris Wofford
United States Senator

The time for making affordable health care a reality for all Americans is here. The forces driving us toward this moment have been a long time coming. Nearly 50 years ago, Harry Truman proposed comprehensive, universal health-care coverage—not government-run, but universal health insurance. And Richard Nixon proposed an employer-based reform plan over 20 years ago. They were blocked and beaten by the political gridlock of their time.

This time is different because we will pass health-care reform. We will not succeed because of the walk-up call sent by my election in 1991, or because of any Senator's or President's rhetoric. We will pass health-care reform because it is necessary—because the facts are piling up and almost everyone now knows it. The debate is no longer whether to reform the health-care system. The debate is now over how to do it.

Passing health-care reform will undoubtedly be one of the most important challenges we will face since the debate over the creation of the Social Security Act in August 1935. It

Altoona Hospital Uses 'State of Animation' To Save Woman

Altoona Hospital's cardiac surgery team recently placed a woman in a suspended state of animation to allow for complicated heart surgery to be performed.

In normal cardiac surgery cases the patient is placed on a bypass machine, which keeps the heart and lungs functioning, and the patient's body is cooled to 32 degrees centigrade. But during a recent cardiac surgery procedure, the patient's aorta was found to be too calcified to use normal procedures.

The surgery team, led by Dr. John Anastasi with Cardiovascular and Thoracic Surgery of Altoona, Inc., took the normal procedure a step further. "We applied a technique," he says, "that has been done before but not, to my knowledge, in this area."

Please turn to Page 5



Wofford: Congress will pass health reform.

will be a test of our good will, of our ability to act in the interest of the common good.

And to pass that test, the number one criterion is that we do achieve the goal set by Harry Truman a half century ago and by the American Medical Association in its Health Access America proposal a half century later: health care for all Americans—universal coverage. Or as Dr. James Todd put it to a Labor and Human Resources Committee hearing: "Every American should have coverage so that the system is

Senator Arlen Specter's staff has devised the table of organizations of the Administration's health-care plan. The editors believe this table provides a valuable tool to our readers for assessing how the program will work. It appears on pages 12 and 13.

available to every American. . . ."

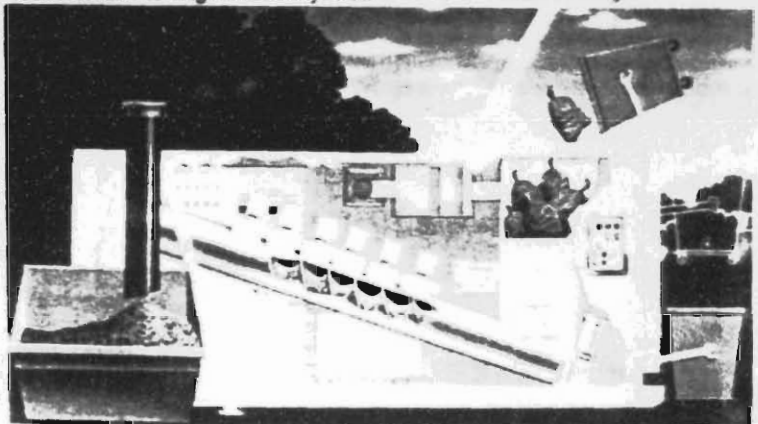
That is what the President says is his bottom line. It is my bottom line. It is the bottom line of the AMA. That is vital common ground—common ground for the common good.

Our goal is to make the right to health care a reality for all Americans. As we all know, the goal may be clear, but the path to reaching it is not. But at least we've established the goal.

It was a physician who really helped me set that goal. During my campaign in 1991, I had a remarkable meeting with a Philadelphia ophthalmologist named Robert Reinecke. After a long discussion about the details about how we might accomplish health-care reform, Reinecke turned to me and said that while details were important, what we really needed was for someone to set the goal.

He pulled a copy of the U.S. Constitution out of his desk drawer and pointed out that if you're charged with a crime you have the right to a lawyer. And he urged me to say that it's even more important if you're sick to have a right to a doctor. And after using the idea with some audiences around our state and seeing their

Please turn to Page 6



The University of Pittsburgh Medical Center is considering purchasing this microwave unit to dispose of medical waste. See story on page 16.

Pennsylvania Senator Opposes Bureaucratic Health System

Continued from Page 1

immediate reaction, I began to understand what Thomas Jefferson meant when—also in Philadelphia—he wrote about a “self-evident truth.”

But even if that truth is self-evident, it isn't sufficient. The second criterion for passing the test is bringing the inflation in health-care costs under control—by reducing the rate of increase in both the government and private-sector spending on health care. The point is not reducing health-care spending below the present level, but reducing the rate of increase. We cannot continue to have health-care costs increase at rates two or three times that of the Consumer Price Index.

In doing so, we must keep clearly in mind that medical care is one of the areas in which America leads the world. Our technological miracles make American medicine the envy of the world. As we extend care to all Americans and control costs, we must not damage the quality of health care or undermine the profession of medicine.

There is a lot of speculation over the process and politics of health reform. The polls will go up and down throughout this debate. But there is a consensus in Congress that we have to act on health reform in this Congress because the need for action is growing all the time.

This will not be a sprint, with action in a matter of weeks or a couple of months. It will be a long run from now through the spring and maybe into summer. There will be big battles ahead and maybe a cliffhanger. But along the way, people all across this country are going to be more involved than perhaps in any legislative matter in our history. The stakes are high for families, for business and labor, for governments at all levels, and especially for every physician in America.

For more than two years now, I've held meetings and roundtables with physicians and other health-care professionals across the state. I've had advisory groups at the University of Pennsylvania and the University of Pittsburgh Medical Centers. I've met with hospital and clinic staffs in every region of our state.

I know many medical professionals worry about health reform and the impact it will have on their practice and their concern are real and fair. What I've heard over and over again from physicians is that the stresses on the health-care system have become so severe that they threaten physicians' relationships with their patients. These stresses have, in a variety of ways, changed the nature and rewards of practicing medicine. And not for the better.

One of our goals in health reform must be to *strengthen the practice of medicine*. We must free doctors from the burdens that interfere with their ability to practice medicine.

In his testimony before our Senate Labor and Human Resources Committee, Jim Todd described the similarities between the AMA's Health Access America proposal and the President's plan.

First, we agree that we must reduce the red tape in the system. Doctors and hospitals are choked with paperwork. I know something first-hand about this from having spent a workday at Thomas Jefferson University Hospital in the admissions and billing departments. I try to do these nonpolitical workdays around our state and, of course, I couldn't be a doctor or a nurse or a technician. But I'm a pretty good typist and so I went to work as a billing clerk.

Doctors and nurses know as well as anyone the amount of paperwork it takes to process a single case and get a single bill paid, the back and forth between hospital and insurance company and physician, is mind-boggling. Reams of different forms; repeated phone calls; hours of work not on patient care, but administration. I saw how for patients and physicians alike, the current system is a paperwork maze that results in confusion, delay and added cost, instead of higher quality care.

Second, we must free physicians from the constant second-guessing they are now subject to by distant bureaucrats in insurance companies or government agencies. Doctors rightly complain about the looking-over-the-shoulder medicine practiced by insurance companies—and by government programs. That must be checked, and changed.

Some medical professionals fear that reform will create more heavy-handed bureaucracy that tells doctors what prices to charge and how to practice. They know from their own experiences that large bureaucracies and central control are usually the enemy of ideas, research and service. My goal, and I know the President's goal, is the contrary: We need a system that sets limits, but leaves the decisions about the practice of medicine to the judgment of physicians.

Third, good reform must be based on consumer choice of doctors and health plans. The reform must result in more choices for more people than at present. We need to reverse the current trend toward less choice, as more and more employers are limiting the choices of their employees, and increasingly leaving them with no choice but a particular lower-cost, managed-care plan.

The restructuring needed will not be centralized but will be shaped to meet the specific needs of local communities. And it will not leave doctors with little choice except to join a large conglomerate.

There are signs of progress along this line in many parts of Pennsylvania already. I've seen new efforts at cooperation in Lancaster County, the Wyoming Valley, and the city of Erie. These communities have been working on initiatives that are based on building a reformed health system from the ground up. They're working to first identify local health needs and then develop a plan that best meets these needs.

I want to support such efforts to create local provider networks that will compete with larger managed-care systems. This may require loan programs to help set up community-based partnerships and networks between physicians and hospitals and further clarification of existing antitrust regulations in order to allow physicians to work together.

Reform that does not accomplish these goals is not the reform I'm fighting for.



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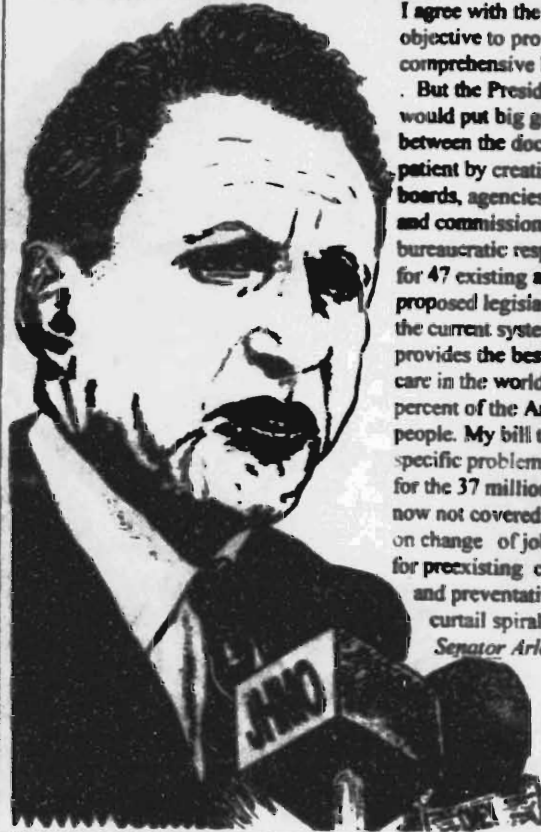
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Senator Arlen Specter

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Central PA Medicine

Vol. 2, No. 8

A newspaper for health-care professionals

June 1994

Scott's Equation

More HMOs = Less Inpatient Days

By Ron Howarth
Associate Editor

Adoption of a market-based universal health-insurance plan similar to President Clinton's proposal probably will accelerate market penetration by health maintenance organizations (HMOs), which sharply limit hospitalizations, says James L. Scott, president of the American Healthcare Systems Institute, an information arm of American Healthcare Systems, an alliance of 40 nonprofit hospital systems. The nation's health-care system already is undergoing a fundamental restructuring that is resulting in hospital closures and consolidation of services, says Scott.

"The bottom line is that the average daily census in community hospitals would decline from about 619,000 in 1991 to about 321,000 if the HMO utilization statistics were achieved nationwide," the institute says. "The census would also decline to 481,000 if utilization were 50 percent higher than the HMO statistics." That represents a decline in inpatient days of between 22 and 48 percent.

Please turn to Page 6

Two Local Hospitals Establish Network

Conemaugh and Meyersdale Community Hospital have signed a master affiliation agreement to develop a regional health-care network.

William Casey, president and chief executive officer of Conemaugh, announced the affiliation at a signing ceremony recently at the Georgian Place in Somerset.

The affiliation agreement follows a nonbinding memorandum of understanding that officials with the two hospitals signed in February.

"The alignment," Casey says, "benefits both Conemaugh and Meyersdale. Meyersdale gains the wherewithal to continue with its 42-year-old primary-care mission in the Meyersdale area, and Conemaugh is given the opportunity to carry out its commitment to the entire Laurel Highlands Region. It is important in the current changing health-care environment for hospitals to take the initiative and form networks."

Please turn to Page 6



President Bill Clinton's proposal allows health maintenance organizations to expand into new markets. The plan also reduces hospital stays and prompts many hospitals to eliminate excess beds.

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In Brief

The Pennsylvania Department of Health recently held a public meeting to review **Mercy Regional Health System's** proposal to convert medical and surgical beds into a 14-bed geropsychiatric unit.

In addition the health department is considering a \$2 million ambulatory surgical facility for Johnstown. The **Cambria County Surgical Center** would be located near the University Park Shopping Center. Dr. **Allan S. Noonan**, secretary of the Department of Health, says a decision will be made on the surgicenter in May.

Altoona Hospital will sponsor an education program in April titled "Smoking Left Me Speechless." Janet Pennington, a speech pathologist at the hospital, and several cancer patients will warn students on the risk of throat cancer from cigaret smoking.



James W. Berner

Altoona Hospital has opened a 352-space parking garage. "Adequate parking," says president and chief executive officer **James W. Berner**, "has always been a challenge for the hospital because of the lack of space. But with the addition of the garage, visiting

Altoona Hospital will now be more convenient and accessible."

The hospital will charge a \$1 fee to visitors and patients.

The radiation oncology facility at **Altoona Hospital** has earned full accreditation for three years from the **American College of Radiology**. The college based the accreditation on the quality of work, staff efficiency, physician performance, and the adequacy of space and equipment. **Blair Oncology Associates** directs **Altoona Hospital's** program.

Lee Hospital has named Dr. **Terry E. Wahl** as director of the **Department of Emergency Medicine**. Wahl, who previously worked as chief of emergency services at **Ellis Hospital** in Schenectady, N.Y., succeeds Dr. **Lee J. Klemens**.

Klemens, who will remain as a staff physician in the Department of Emergency Medicine, has been elected president of the **Lee Hospital Medical Staff** for 1994. Klemens succeeds Dr. **Dinesh P. Mathur** as president.

Dr. **Bruce D. Jeffries** was named vice president, while Dr. **Pradeep K. Kulkarni** was selected as secretary-treasurer. Other persons chosen for the executive committee are Dr. **John R. Quinn**, chairman of the Department of Anesthesiology; Dr. **George W. Strother**, chairman of the Department of Medicine; Dr. **Ronald M. Hamaty**, chairman of the Department of Obstetrics and Gynecology; Dr. **Stephen T. Bush**, chairman of the

Department of Pathology; Dr. **William E. Palmer**, chairman of the Department of Radiology; Dr. **George H. Wheeling**, chairman of the Department of Surgery; Dr. **Chester J. Beres**, chairman of the Department of Family Practice. The at-large members are Drs. **Nicholas A. Cerimele**, **Thomas R. Ellenberger**, **William P. Hirsch**, **Vijay K. Malhotra**, **John J. Seiber**, **J. Eric Wleczorek**, and **Patrick W. Wolfe**. Dr. **Shiban K. Warikoo** will be the representative to the hospital medical staff section of the **Pennsylvania Medical Society**.

Conemaugh hospital now offers onsite **Magnetic Resonance Imaging Services**.

The **Sigma Advantage 0.5T**, produced by **General Electric Medical Systems**, strengthens the hospital's role as a regional trauma center, according to **William Casey**, president and chief executive officer.

"Our growing regional role," says Casey, "includes coverage of the largest trauma area in Pennsylvania."

"Plus our mission demands that we expose our residents, nursing students, and allied health students to the proven power of magnetic resonance imaging as a diagnostic tool."

Dr. **Linda Moran** has joined the medical staff at **Somerset Hospital** as associate medical director for the 20-bed **Neuropsychiatric Services Department**. Moran completed a psychiatry residency at



William Casey

Albert Einstein College of Medicine in Bronx, New York. A board-eligible physician, Dr. Moran is a member of the **American Medical Association** and the **American Psychiatric Association**.

Somerset State Hospital will hold an art show on April 22. The hospital reports that 34 artists and craftsmen have signed up for a booth at the program.

Uniontown Hospital has promoted **Thomas A. Matsko** to director of physical medicine. Matsko succeeds **Kim Murphy**, who resigned to spend more time on clinical duties. Murphy will resume her former position as a staff physical therapist.

Uniontown Hospital also named **Jean Kocay** to be director of **Volunteer Services**. Kocay comes to Uniontown from **Citizens General Hospital** in New Kensington.

Latrebe Area Hospital has appointed Dr.

John J. Moosy to the active medical staff. Moosy has been a neurosurgeon on the medical staff of the **University of Pittsburgh Medical Center** and the **Pittsburgh VA Medical Center** since 1986. Moosy is part of **University Neurosurgical Associates**, a group affiliated with the University of Pittsburgh.



Dr. John J. Moosy

Dr. Edward J. Hahnke has joined **Latrebe Area Hospital's** active medical staff as an oral/maxillofacial surgeon. Hahnke has opened offices in Greensburg and Mount Pleasant.

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March 10, 1995

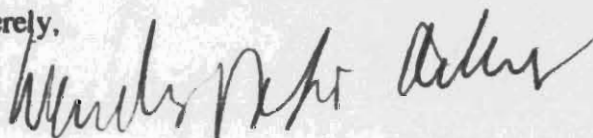
Ms. Mary L. Taksar, Attorney
General Counsel's Office
Federal Elections Commission
Washington, DC 20463

Dear Ms. Taksar:

I have read the complaint filed by Dr. Willeam A. Choby, MUR 4188, against *Central PA Medicine* and *Western PA Medicine*. I would like to comment on one issue raised in Dr. Choby's complaint—his allegation that our publication required him to place the disclaimer 'paid for by the Choby '94 committee.' This is completely untrue.

I want to emphatically state that Dr. Choby developed the layout and design for the ad. In fact, I spent several hours working on it for him. I must have faxed it to him 10 times because he kept making last minute changes. Furthermore, he insisted that the 'paid for by the Choby '94 committee' be placed on the advertisement. He said this was necessary for his political campaign to pay for the advertisement. Please feel free to call me at (814) 288-4458 if you need additional information.

Sincerely,



Wendy DeLisa Ankney
Director of Marketing
Western PA Medicine

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MORGAN, LEWIS & BOCKIUS

COUNSELORS AT LAW

2000 ONE LOGAN SQUARE

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March 16, 1995

VIA FEDERAL EXPRESS

Federal Election Commission
Washington, D.C. 20463

Attention: Marielle Taksar, Attorney
Central Enforcement Docket

Re: MUR 4187 and MUR 4188
Murtha for Congress Committee
and Robert C. Ondick, Treasurer

Greetings:

This will respond to the two documents which have been docketed as complaints made by Willeam A. Choby, D.M.D., against Murtha for Congress Committee ("the Committee") and Robert C. Ondick, C.P.A., as Treasurer ("Respondents") of that committee.

Enclosed is the facsimile of an affidavit of Robert C. Ondick (the original being sent to you directly) responding to Dr. Choby's factual allegations against Respondents, which are implied rather than explicitly stated; also enclosed is the executed Statement of Designation of Counsel.

The implied allegations against Respondents at MUR 4187 relate to an editorial endorsement of Congressman Murtha published in the Johnstown Tribune-Democrat, a newspaper of general circulation not owned or controlled by any political party, political committee or candidate. The implied allegations at MUR 4188 refer to the size (alleged to be "excessively large") of a reproduction of a photograph of Congressman Murtha accompanying an article which described the business of a company operating in his Congressional District (Operation Assistance, Inc.) and which article included a quotation from Congressman Murtha commending Operation Assistance, Inc.

As stated in the Affidavit of Robert C. Ondick, Respondents are not affiliated with either periodical. Moreover, Mr. Ondick is not aware of any action taken by the Committee or any of its representatives in respect of the publication of the photograph of Congressman Murtha in Central Pennsylvania

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Federal Election Commission
March 16, 1995
Page 2

Medicine, much less any action to cause the photograph to be "excessively large."

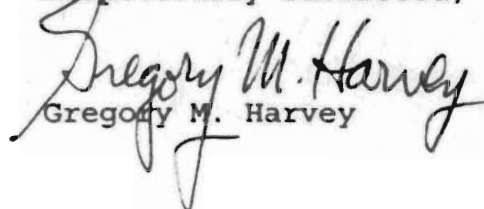
Under these circumstances, the conduct of the two periodicals is exempt from the Federal Election Campaign Act ("the Act") pursuant to 2 U.S.C. § 431(9)(b)(i) and 11 C.F.R. § 100.7(2), as well as pursuant to the First Amendment to the Constitution of the United States, and Dr. Choby's complaint against Respondents on an implied theory of secondary liability should fail.

Because the legal principles applicable to this matter are well known to the staff of the Commission, we believe that detailed argument on these points is not necessary. For your convenience, we enclose the First General Counsel's Report at MUR 3713 disposing of the complaints of William D. White docketed at MUR 3713; not enclosed but also pertinent is the First General Counsel's Report at MUR 3660 dealing with a photograph of First Lady Barbara Bush published on the cover of a periodical.

Please note that Mr. Ondick's Affidavit expressly denies that the Murtha for Congress Committee engaged in the conduct in which the complainant, Dr. Choby appears to implicate himself, to wit, using an entity which he, Dr. Choby, controls (Health Market Associates) to purchase favorable news coverage in Central Pennsylvania Medicine, April 1994, page 21, illustrated with a photograph of Dr. Choby. Since Dr. Choby's complaint appears based on the size of the photograph of Congressman Murtha, we note that in the photocopy provided to the me as counsel the photograph of Dr. Choby appears to be three and 1/8 column inches whereas the photograph of Congressman Murtha, complained of by Dr. Choby as being "excessively large," appears in the photocopy provided to me to be only two and 3/4 column inches.

Please communicate with the undersigned if any additional information is desired from Respondents Murtha for Congress Committee and Robert C. Ondick, Treasurer.

Respectfully submitted,


Gregory M. Harvey

enclosure

cc: Robert C. Ondick, C.P.A.

96043724770

STATEMENT OF DESIGNATION OF COUNSEL

NUR 4187 and 4188

NAME OF COUNSEL: Gregory M. Harvey

ADDRESS: Morgan, Lewis, Rocking

2000 One Logan Square

Philadelphia, PA 19103

TELEPHONE: (215) 963-5427

FAX: (215) 963-5299

The above-named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

MAR. 15, 1995
Date

Robert C. Ondick
Signature

RESPONDENT'S NAME: Robert C. Ondick, Treasurer

ADDRESS: BT Financial Plaza, Suite 220

551 Main Street

Johnstown, PA 15901

HOME PHONE: _____

BUSINESS PHONE: (814) 536-7579

FAX: (814) 539-2474

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COMMONWEALTH OF PENNSYLVANIA:

ss.:

COUNTY OF CAMBERIA

AFFIDAVIT OF ROBERT C. ONDICK, C.P.A.

Robert C. Ondick, being first duly sworn according to law, deposes and says, to the best of his personal knowledge or on information and belief, as follows:

1. Murtha for Congress Committee has been the authorized campaign committee of Congressman John P. Murtha since the campaign year 1974; I have served as Treasurer of Murtha for Congress Committee since June 24, 1974; I am by profession a Certified Public Accountant.

2. This affidavit is submitted in respect of purported "complaints" which have been docketed by the Federal Election Commission as MUR 4187 and MUR 4188.

3. Although the "complaint" docketed at MUR 4187 does not call for a factual response on behalf of the Murtha for Congress Committee, no allegation being made in that complaint of any impropriety or indeed, of any action whatsoever taken by Murtha for Congress Committee in respect of the editorial endorsement published by the newspaper known as the Johnstown Tribune-Democrat, I represent that Murtha for Congress Committee is entirely unrelated to the entity which owns the Johnstown Tribune-Democrat and, further, that although the title of that newspaper includes the word "Democrat," the entity which owns that newspaper has no affiliation with or ownership by the Democratic Party of the Commonwealth of Pennsylvania. the

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Democratic National Committee, or any other political party committee or entity; to the best of my knowledge, the Johnstown Tribune-Democrat is an independent newspaper of general circulation.

4. Concerning the purported "complaint against Central Pennsylvania Medicine," docketed at MUR 4188, and in response to the implied allegations set forth on the second page of that document, I represent, to the best of my personal knowledge and on information and belief after inquiry of all persons in positions of supervisory responsibility in the campaign conducted by Murtha for Congress in the 1994 campaign cycle, that Murtha for Congress Committee took no actions whatsoever to cause a photograph of Congressman Murtha to be published at page 14 of the periodical titled "Central Pennsylvania Medicine" with issue date of July 1994; the photograph of Congressman Murtha which appears to have been reproduced on that page is routinely made available to any person or periodical which requests a photograph of Congressman Murtha, but I have been unable to determine whether any request was made for that photograph by or on behalf of Central Pennsylvania Medicine.

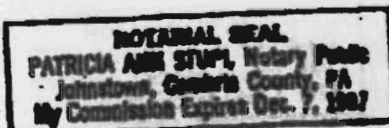
5. Further in response to the complaint docketed at MUR 4188, I represent, to my personal knowledge and on information and belief after inquiry, that Murtha for Congress Committee made no arrangements whatsoever with Ankney Publishing, Inc., alleged in the complaint to be the publisher of Central

Pennsylvania Medicine, intended to obtain favorable news coverage of Congressman Murtha, nor did Murtha for Congress Committee make any such arrangements indirectly through the entity described as "Operation Assistance" referred to in the complaint. :

Robert C. Ondick
Robert C. Ondick

Sworn and subscribed to
before me this 16th day
of MARCH, 1995:

Patricia Ann Stupl
Notary



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BRUSSELS

MORGAN, LEWIS & BOCKIUS

COUNSELORS AT LAW

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March 20, 1995

VIA FEDERAL EXPRESS

Federal Election Commission
Washington, D.C. 20463

Attention: Marielle Taksar, Attorney
Central Enforcement Docket

Re: MUR 4187 and MUR 4188
Murtha for Congress Committee
and Robert C. Ondick, Treasurer

Greetings:

By inadvertence, the First General Counsel's Report at MUR 3713 disposing of the complaints of William D. White docketed at MUR 3713 was omitted from the Federal Express envelope sent to you on March 16, 1995. We apologize for the inconvenience and enclose a copy of that document.

Respectfully submitted,

Gregory M. Harvey
Gregory M. Harvey

enclosure
cc: Robert C. Ondick, C.P.A.

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SENSITIVE

In this complaint, William White alleges that the League prepared and distributed a "16 page supplement to the Pittsburgh Post-Gazette newspaper purporting to be a comprehensive guide"

to Pennsylvania's 1992 primary elections. Complaint at 1.¹ In addition, complainant alleges that the Post-Gazette also printed numerous articles concerning that year's Senate election. According to the complainant, these expenditures are actually contributions to Lynn Hardy Yeakel and Arlen Specter, two 1992 Senate candidates. In support of this allegation, Complainant maintains that he was an independent senatorial candidate in that election, yet Respondents failed to include him in the supplement and the news articles in question or "make any mention of the procedure to nominate an independent candidate" for that seat. Id. He alleges that they instead featured only

1. Mr. White has filed numerous other complainants challenging the activities of various persons in connection with Pennsylvania's 1991 and 1992 Senate elections. These include, MURs 3706, 3709 and 3710, all of which the Commission closed with no reason-to-believe findings on May 25, 1993. Mr. White is also the complainant in two other matters, MURs 3612 and 3714, which have not yet been addressed by the Commission. This Office is currently preparing a First General Counsel's Report in these matters.

In addition, Mr. White has filed several related civil actions in U.S. District Court. First, he filed suit challenging the constitutionality of the Act. His suit, in which this agency was a party, was dismissed for lack of jurisdiction. White v. United States, No. 92-1202, (W.D. Pa. Jan. 7, 1992). Second, he filed suit against some of the Respondents involved in MURs 3612 and 3714. This suit was similarly dismissed, inter alia, for lack of jurisdiction over the Act. White v. Pennsylvania Ass'n. of Broadcasters, No. 92-0979 (W.D. Pa. Sept. 15, 1992). Third, Mr. White filed several suits challenging Pennsylvania's method of conducting special and general elections. These suits were similarly dismissed, for lack of standing or failure to state a claim for which relief could be granted. White v. Commonwealth of Pennsylvania, No. 91-1059 (W.D. Pa. December 10, 1991); White v. Commonwealth of Pennsylvania, No. 91-1060 (W.D. Pa. Oct. 18, 1991) aff'd, 968 F.2d 15 (3d Cir. 1992); White v. Commonwealth of Pennsylvania, No. 92-0710 (W.D. Pa.) aff'd, 983 F.2d 1054 (3d Cir. 1992). Last and most recent, Mr. White has filed suit pursuant to 2 U.S.C. § 437g(a)(8)(A) with respect to the enforcement matters currently pending before the Commission.

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the Democratic and Republican party candidates.²

With regard to the League's supplement, complainant further alleges that Respondents prepared the supplement "in coordination" with the Yeakel and Specter campaigns, which purportedly furnished photographs of the candidates as well as other information in connection with the preparation of the supplement. Complainant characterizes the supplement as "a news event" and states that "there was no attempt . . . to provide the 'reasonably equal coverage to all opposing candidates in the circulation or listening area' required under § 100.7(b)(2)(ii) to exempt the publication from contribution reporting requirements." Id. at 1.³

Although neither the complainant nor the Respondents provided copies of either the League's publication or the Post-Gazette's news articles, Respondents acknowledge making the expenditures at issue in the complaint. In her response on behalf of the League, Diane Edmundson, the Chair of the League,

2. Ms. Yeakel and Mr. Specter were, respectively, the Democratic and Republican party candidates in the 1992 general election. The earlier primary election included a total of seven Democratic and Republican party candidates. The Democratic party candidates included: Robert Colville; Freddy Mann Friedman; Mark Stephen Single; Philip Valenti and Lynn Hardy Yeakel. The Republican party candidates included: Stephen F. Freind and Arlen Specter.

3. The complainant also alleges that the League is "a partisan organization which functions on behalf of the Republican and Democrat parties." Complaint at 2. Apparently, the complainant is challenging the League's status under Section 501(c)(3) of the Internal Revenue Code, which requires organizations qualifying for tax-exempt status to meet certain nonpartisan criteria. The determination of whether an organization like the League qualifies for Section 501(c)(3) status, however, is not within the Commission's jurisdiction.

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describes the supplement in question as a "Voters Guide" and explains that the complainant was not included because he was not a candidate on the primary election ballot. Attachment A. Ms. Edmundson asserts that the League's policy with respect to the publication of its voters guide is to include "[a]ll candidates who are certified to appear on the ballot" and, as a purported independent candidate, Mr. White was not certified to appear on the primary ballot. Id. She explains that in Pennsylvania, "political party candidates are nominated at primaries [while]. . . . [m]inor political parties do not conduct primaries but circulate and file minor political party nomination papers in order to nominate candidates directly to the November ballot." Id. at 1 (emphasis in original). She notes that "[a]s with minor political party candidates, the nomination of independent candidates must be made by nomination papers instead of primary elections." Id. at 2.

Counsel for the Post-Gazette similarly acknowledges that her client "printed newspaper articles and an election supplement regarding the primary election in Pennsylvania." Attachment B at 1. She maintains, however, that the Post-Gazette's "conduct is specifically exempt" under Section 431(9)(B)(i) of the Act, which exempts from the definition of expenditure the costs of any news articles.

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Id. at 1-3.⁴ Counsel further notes that she "is informed and believes that Mr. White was not a candidate in the April, 1992 primary election [and]. . . . [t]o the extent Mr. White planned to wage a 'write-in' campaign, he stood in a position no different from that of any of a potentially infinite number of such candidates [whom] the Post-Gazette was under no obligation to print a news story [about]." Id. at 4.

The Act broadly prohibits corporations from making contributions or expenditures in connection with Federal elections. 2 U.S.C. § 441b(a).⁵ Broadcasting stations, newspapers, magazines or other periodical publications may, however, make expenditures toward news stories, commentaries, or editorials in connection with Federal elections. 2 U.S.C. § 431(9)(B); 11 C.F.R. 100.7(b)(2) and 100.8(b)(2). In addition, corporations may also make certain nonpartisan communications to the general public. Federal Election Comm'n. v. Massachusetts Citizens for Life, 479 U.S. 238 (1986). These permissible corporate communications include registration and get-out-the-vote efforts and the preparation and distribution of voting records of Members of Congress. 11 C.F.R. §§ 114.4(b).

4. Counsel for the Yeakel and Specter campaigns also raise the Act's press exemption in their respective responses. See Attachments C at 1 (Yeakel)(activities in question are "appropriate public affairs programming or news coverage") and D at 2 (Specter)(law explicitly provides that the expenditures in question are not contributions).

5. According to the Pennsylvania Secretary of State's Office, the Pennsylvania League is a non-profit corporation. Similarly, the Post-Gazette is published by the PG Publishing Company, a Pennsylvania corporation.

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Corporations may also prepare and distribute voter guides to the general public.⁶ Such communications may, however, result in prohibited in-kind contributions if they are made in coordination with a candidate's campaign.

As an initial matter, Respondents' assertions concerning Mr. White's failure to qualify as a candidate on the primary and general election ballots appear accurate. Indeed, Mr. White has acknowledged that he was an independent candidate and under Pennsylvania law candidates in the primary election must be nominated by a political party to have their names placed on that election ballot. 25 P.S. § 2862 (1964). Although Pennsylvania law provides for independent candidates to have their names placed on the general election ballot, Mr. White, who challenged Pennsylvania's general election candidate nomination process, was unsuccessful in having his name placed on that election ballot. White v. Commonwealth of Pennsylvania, No. 92-0710 (W.D. Penn.), aff'd, 983 F.2d 1054 (3d Cir. 1992). Furthermore, Mr. White did not file a statement of candidacy with the Commission in connection with the 1992 Senate election

6. In Faucher v. Federal Election Comm'n., 928 F.2d 466 (1st Cir. 1991), cert. denied, 495 U.S. ____ (October 7, 1991), the court held that the Commission's regulations governing the preparation and distribution of voter guides by corporations exceeded the statutory authority of the Act. However, such communications may constitute prohibited expenditures if they expressly advocate the election or defeat of a candidate. Federal Election Comm'n. v. Massachusetts Citizens for Life, 479 U.S. 238 (1986). In the matter at hand, however, the complainant is challenging the expenditures in question as in-kind contributions and not as prohibited expenditures which contain express advocacy.

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at issue here.⁷ In this regard, there appears to be no factual basis supporting Mr. White's assertion that he was a candidate in the 1992 Senate election, let alone a candidate who should have been included in the League's publication or the Post-Gazette's news articles.

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With regard to the allegation of coordination, the Chair of the League explains that in preparing its "Voters Guide," the League obtained a list of the certified ballot candidates in the primary election and then used that list to solicit photographs and other information from the various candidates. Although the League was apparently in contact with various candidates, the contacts at issue here, in the context of preparing a publication featuring the candidates in the election, would not appear to rise to the level of coordination. Indeed, the Act permits corporations to make certain nonpartisan communications to the general public and in the case of voter guides, the Commission has recognized the need for such contact, noting that there is a distinction "between the limited contact with candidates that is necessary to produce voter guides . . . and the more extensive discussions resulting in arrangement, coordination or direction of [the] . . . activities by the candidate. See 57 Fed. Reg. 33548 at 33554 July 29, 1992 (notice of proposed rulemaking for "MCFL" regulations). Here,

7. Disclosure materials show that Mr. White filed a statement of candidacy in connection with an earlier Senate election in Pennsylvania. That election was a special election held in 1991 for the purpose of filling the vacancy that arose when the Honorable John Heinz died in a helicopter crash.

the information shows that the League's contact with the various candidates did not extend beyond a request for information and photographs to include in the publication.

Likewise, the allegation that Respondents' expenditures were "news stories" which should have provided equal coverage of all candidates to qualify for the media exemption is misplaced here. Under the Commission's regulations, the requirement of equal coverage is only imposed when the media entity in question is owned or controlled by a political party, political committee or candidate. 11 C.F.R. §§ 100.7(b)(2) and 100.8(b)(2). In the case of the League, it does not appear that that organization was operating as a media entity, much less one that was owned or controlled by a political party or a candidate. In the case of the Post-Gazette, counsel submitted the affidavit of William Deibler, the managing editor of the newspaper, who states that the Post-Gazette is "a newspaper of general circulation serving the greater Pittsburgh area. . . . [and that it is not] ^Xowned or controlled by any political party, political committee or candidate." Attachment B at 6-7. In this regard, it does not appear that the Post-Gazette would have been required to report on Mr. White's election efforts, even if Mr. White actually had been a candidate in the 1992 Senate election. In short, it appears that the news stories in question would clearly fall within the legitimate press function for the Post-Gazette and thus within the Act's media exemption. See Reader's Digest Ass'n. v. Federal Election Comm'n., 509 F. Supp. 1210 (S.D.N.Y. 1981).

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Based upon the above considerations, this Office recommends that the Commission find no reason to believe that any of the Respondents in this matter violated any provision of the Act based upon the complaint filed in MUR 3713.

III. RECOMMENDATIONS

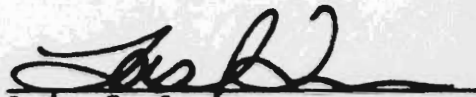
1. Find no reason to believe that the League of Women Voters of Pennsylvania, the Pittsburgh Post-Gazette, Lynn Hardy Yeakel, Lynn Yeakel for U.S. Senate and Sidney Rosenblatt, as treasurer, The Honorable Arlen Specter, and Citizens for Arlen Specter and Stephen J. Harmelin, as treasurer, violated any provision of the Act based upon the complaint filed in MUR 3713.
2. Approve the appropriate letters.
3. Close the file.

Lawrence M. Noble
General Counsel

Date

7/1/93

BY:


Lois G. Lerner
Associate General Counsel

Attachments

- A. Response of the League of Women Voters
- B. Response of the Pittsburgh Post-Gazette
- C. Response of the Honorable Arlen Specter and Citizens for Arlen Specter and Stephen J. Harmelin, as treasurer
- D. Response of Lynn Hardy Yeakel and Lynn Yeakel for U.S. Senate and Sidney Rosenblatt, as treasurer

96043724784

December 14, 1992

Ms. Lisa E. Klein
Assistant General Council
Federal Election Commission
Washington D.C. 20463

Re: MUR 3713

Dear Ms. Klein:

I am writing in regard to the complaint (MUR 3713) about the 1992 primary election Voters Guide filed against the Pittsburgh Post-Gazette and the League of Women Voters of Pennsylvania by William D. White. It is our contention that there is no basis for the complaint filed by Mr. White.

The main purpose of a League of Women Voters Voters Guide is to help voters make informed choices. All candidates who are certified to appear on the ballot are invited to respond to Voters Guide questionnaires. All candidates for an office are treated alike, major and minor party candidates as well as independents.

In Pennsylvania, political party candidates are nominated at primaries. A candidate's name is printed on the primary ballot upon the filing of a candidate's affidavit, filing fee, and nomination petitions signed by party electors in the district.

Minor political parties do not conduct primaries but circulate and file minor political party nomination papers in order to nominate candidates directly to the November ballot.

Attachment A

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As with minor political party candidates, the nomination of independent candidates must be made by nomination papers instead of primary elections.

It is my understanding from conversations with the Pennsylvania Department of State that Mr. White filed a suit against the state prior to the 1992 primary election seeking to require the state to distribute his nomination petitions to all primary election polling places in the state. He also requested that the state be compelled to pay the notary fees and postage for the filing of these petitions with the state. He lost this suit.

At any rate, in accordance with the Pennsylvania electoral process, Mr. White's name would not have appeared on the primary election ballot. The League of Women Voters obtains a copy of the official ballot after the last day to file nomination petitions has passed. This list of certified ballot candidates is then used to solicit Voters Guide information from candidates. Since Mr. White's name did not appear on the certified ballot list he was not sent a request for Voters Guide information.

Mr. White did not contact me regarding the Voters Guide. To my knowledge, he did not contact the office of the League of Women Voters of Pennsylvania or the office of the League of Women Voters of Allegheny County, which is the League in the area of the Pittsburgh Post-Gazette, regarding the Voters Guide.

It is not clear to me from Mr. White's complaint if he intended to be a write-in candidate. In Pennsylvania there is no provision for a write-in candidate to declare candidacy. Write-in candidates cannot be officially identified. Since it is League of Women Voters of Pennsylvania policy to include only certified ballot candidates in the Voters Guide, write in candidates are never included.

We trust that you will agree with our contention that Mr. White's complaint against the League is without merit. He was not a qualified candidate in the 1992 primary election in Pennsylvania. A "mention of the procedure to nominate an independent candidate" in the Voters Guide is not an appropriate use for the Voters Guide since the purpose of the Voters Guide is to give the voters ballot information to enable them to make informed choices on election day.

96043724786

For further information on this matter, contact:

Lynda Trowbridge
Voter Service Director
328 Tower Lane
Narberth, PA 19072
215-664-7796

Sincerely,

Diane Edmundson

Diane Edmundson, Chair

cc: Lynda Trowbridge

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FEDERAL ELECTION COMMISSION

William D. White

Petitioner,

v

Pittsburgh Post-Gazette
League of Women Voters

Respondents.

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Matter Under Review No. 3713

RESPONSE TO COMPLAINT

The Pittsburgh Post-Gazette responds to the
above-referenced Complaint as follows:

The Pittsburgh Post-Gazette is a general circulation
newspaper serving the greater Pittsburgh area. As stated in the
Complaint, the Pittsburgh Post-Gazette printed newspaper articles
and an election supplement regarding the primary election in
Pennsylvania in April of 1992.

This conduct is specifically exempt from the Federal
Election Campaign Act (the "Act") under 2 U.S.C. § 431(9)(B)(i)
and 11 CFR § 100.7(2) which provide that expenses incurred in

Attachment to B
10/7

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producing new stories are not expenditures or contributions under the Act.

Section 431(9)(B)(i) provides that:

"The term expenditure does not include any news story, commentary or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication unless such facilities are owned or controlled by any political party, political committee or candidate."

2 U.S.C. § 431(9)(B)(i).

Similarly 11 CFR § 100.7(b)(2) provides:

"Any cost incurred in covering or carrying a news story, commentary or editorial by any broadcasting station, newspaper, magazine or other periodical publication is not a contribution unless the facility is owned or controlled by any political party, political committee or candidate in which case the cost for a news story (i) which represents a bona fide news account communicated in a publication of general circulation or on a licensed broadcast facility and (ii) which is part of a general pattern of campaign-related news accounts which give reasonably equal coverage to all opposing candidates in the circulation or listening area, is not a contribution."

11 CFR § 100.7(b)(2).

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The Pittsburgh Post-Gazette is not a facility "owned or controlled by any political party, political committee, or political candidate." See Declaration of William Deibler, Managing Editor, Pittsburgh Post-Gazette, attached as Exhibit A. Thus, the articles and election supplement cited in the Complaint are neither expenditures nor contributions within the meaning of the Act.

Additionally, the Complainant's claim that the 11 C.R.S. 100.7(B)(2)(ii) "requires reasonably equal coverage to all opposing candidates in the circulation or listening area" is patently incorrect. The regulation imposes this requirement only "when the facility is owned or controlled by any political party, political committee or candidate." There is no such requirement for an independent newspaper of general circulation such as the Post-Gazette.

Such a requirement of enforced equal access would violate the First Amendment guarantee of freedom of the press. See Miami Herald Publishing Company v. Tornillo, 418 U.S. 241 (1974). In Miami Herald the United States Supreme Court held that a statute imposing a right of "equal access" on a newspaper violated the newspaper's rights under the First Amendment. The

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court expressly rejected the argument for equal access implicit in the Complaint in this matter, stating that:

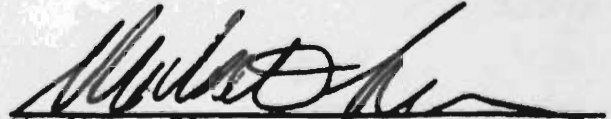
"A newspaper is more than a passive receptacle or conduit for news, comment and advertising. The choice of material to go into a newspaper, and the decisions made as to limitations on the size and content of the paper and treatment of public issues and public officials - whether fair or unfair - constitutes the exercise of editorial control and judgment."

Miami Herald Publishing Co. v. Tornillo, 418 U.S. at 258.

Moreover, even if a right of equal access existed, Mr. White would not be entitled to exercise this right because the Post-Gazette is informed and believes that Mr. White was not a candidate in the April, 1992 primary election. To the extent Mr. White planned to wage a "write-in" campaign, he stood in a position no different from that of any of a potentially infinite number of such candidates and the Post-Gazette was under no obligation to print a news story concerning his activities. See Miami Herald, 418 U.S. at 256-257 (noting the economic burden that would be imposed by a requirement that a newspaper afford all interested parties a "right to reply" to stories in the newspaper).

For the reasons set forth above and in the attached Declaration of William Deibler, the Post-Gazette urges the Commission to dismiss MUR 3713.

December 16, 1992


Marketa Sims

Reed Smith, Shaw & McClay
435 Sixth Avenue
Pittsburgh, PA 15219
(412) 288-4292

Counsel for the Pittsburgh
Post-Gazette

96043724792

FEDERAL ELECTION COMMISSION

William D. White

Petitioner,

v

**Pittsburgh Post-Gazette
League of Women Voters**

Respondents.

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:
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Matter Under Review No. 3713

DECLARATION OF WILLIAM DEIBLER

I, William Deibler, declare that I am the Managing Editor of the Pittsburgh Post-Gazette Newspaper. I make this declaration of my own personal knowledge and if called upon to do so would testify truthfully to the following:

The Pittsburgh Post-Gazette is a newspaper of general circulation serving the greater Pittsburgh area and is owned by Blade Communications. Neither the Pittsburgh Post-Gazette nor Blade Communications is owned or controlled by any political party, political committee or candidate.

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I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 15, 1992 at Pittsburgh,
Pennsylvania.

William Deibler
William Deibler

96043724794

MORGAN, LEWIS & BOCKIUS

COUNSELORS AT LAW
2000 ONE LOGAN SQUARE
PHILADELPHIA, PENNSYLVANIA 19103-0903
TELEPHONE: (215) 963-5000
FAX: (215) 963-5250

PHILADELPHIA
LOS ANGELES
MIAMI
LONDON
FRANKFURT

WASHINGTON
NEW YORK
HARRISBURG
SAN DIEGO
BRUSSELS
TOKYO

GREGORY M. HARVEY
DIAL DIRECT (215) 963-5427

December 11, 1992

VIA FEDERAL EXPRESS

Federal Election Commission
999 "E" Street, N.W.
Washington, DC 20463

Attention: Lisa E. Klein
Assistant General Counsel

Re: MUR 3713 and MUR 3714

Greetings:

This letter responds to the Complaints of William D. White, pursuant to Ms. Klein's two letters dated November 30, 1992 addressed to our client Lynn Hardy Yeakel.

We incorporate by reference our earlier response to the Complaint of William D. White docketed at MUR 3706, especially the portion of that response dealing with whether William D. White was a bona fide candidate for election to the office of United States Senator.

The activities challenged by Mr. White in the Complaints docketed at MUR 3713 and MUR 3714 constitute appropriate public affairs programming or news coverage in which the participation of the League of Women Voters was appropriate and proper.

On behalf of Lynn Yeakel, we respectfully request that the two additional Complaints of William D. White be dismissed.

Respectfully yours,

Gregory M. Harvey
Gregory M. Harvey

GMH:pg
enclosure

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Att: Lynn Yeakel
1/12

MORGAN, LEWIS & BOCKIUS

COUNSELLORS AT LAW
2000 ONE LOGAN SQUARE
PHILADELPHIA, PENNSYLVANIA 19103-6602

TELEPHONE (215) 563-6000

FAX (215) 563-6200

PHILADELPHIA

LOS ANGELES

MIAMI

LONDON

FRANKFURT

WASHINGTON

NEW YORK

HARRISBURG

SAN DIEGO

BRUSSELS

TOKYO

GREGORY M. HARVEY

Dist. 040027 (215) 563-6427

December 4, 1992

VIA FEDERAL EXPRESS

Federal Election Commission
999 "E" Street, N.W.
Washington, DC 20463

Attention: Lisa E. Klein
Assistant General Counsel

Re: MUR 1706

Greetings:

This letter responds to the Complaint of William D. White, pursuant to Ms. Klein's letter dated November 20, 1992 addressed to our client Lynn Hardy Yeakel.

The Complaint purports to attribute a prohibited in-kind contribution to the campaign of Lynn Yeakel from a radio station described in the Complaint as WDUQ-FM 90.5 and Kevin Gavin, described in the Complaint as News Director of WDUQ.

The Complaint should be dismissed without further inquiry because the facts alleged in the Complaint constitute a description of conventional public affairs programming by a radio station.

To the extent that additional facts may be relevant concerning that public affairs programming, respondent Lynn Yeakel incorporates by reference the Affidavit of Judy Jankowski, General Manager of WDUQ-FM, a copy of which is attached hereto.

The complainant has either failed to understand or intentionally misquoted sub-section 100.7(b)(2)(ii) of the Commission's Regulations. The portion of the Regulation quoted by the complainant would be applicable only if the radio station were "owned or controlled by any political party, political committee or candidate." On information and belief, WDUQ-FM is licensed to Duquesne University, a degree-granting institution of higher education.

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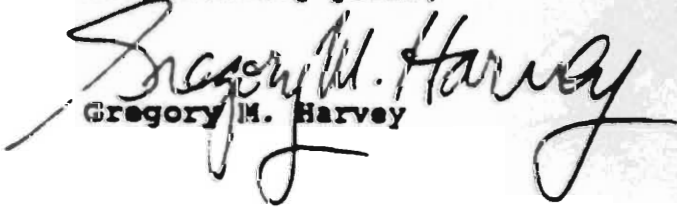
Federal Election Commission
December 4, 1992
Page 2

Moreover, the implication of the Complaint that William D. White ("White"), the complainant, was a bona fide candidate for election to the office of United States Senator is misleading. Although White, on information and belief, commenced litigation in a Federal District Court seeking an Order to Compel the office of the Secretary of the Commonwealth of Pennsylvania and each County Board of Elections to circulate nomination papers for him, the relief sought was denied by the Court. Thereafter, White failed to present to the Secretary of the Commonwealth any nomination papers to cause his name to be printed on the ballot as a candidate and failed to conduct any substantial campaign as a write-in candidate. Having failed to take reasonable steps to establish himself as a bona fide candidate for the office, White should not be given any relief based on his complaining that the respondent radio station and the League of Women Voters treated him differently than they treated those candidates who had demonstrated substantial support by performing the procedures needed to place their names on the general election ballot.

This response is supported by the verification of the undersigned, who made the inquiries deemed necessary to him to establish the background concerning complainant White's failure to establish himself as a bona fide candidate.

On behalf of Lynn Yeakel, we respectfully request that the Complaint be dismissed.

Respectfully yours,


Gregory M. Harvey

GMH:pg
enclosure

bcc: Ms. Lynn Hardy Yeakel
Ernest Sanchez, Esquire

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VERIFICATION TO RESPONSE

COMMONWEALTH OF PENNSYLVANIA:

COUNTY OF PHILADELPHIA

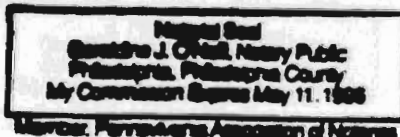
ss.:
:

Gregory M. Harvey, being first duly sworn according to law, deposes and says that he is the attorney for Lynn Hardy Yeakel, the respondent named in the foregoing Letter Response in MUR 3706 ("the Letter Response"), that he has made inquiry concerning the facts set forth in the Letter Response and that the facts set forth in the foregoing Letter Response are true and correct to the best of his knowledge, information and belief.

Gregory M. Harvey
Gregory M. Harvey

Dated: December 4, 1992

Sworn and subscribed to
before me this 4th day
of December, 1992:

Gregory M. Harvey

Sandra J. O'Hall, Notary Public
Philadelphia, Philadelphia County
My Commission Expires May 11, 1996
Member, Pennsylvania Association of Notaries

AFFIDAVIT

My name is Judy Jankowski. I am the General Manager of WDUQ-FM, licensed to Duquesne University. I am providing information concerning Bill White's letter and complaint received by the Federal Election Commission on November 16, 1992.

In September 1992, WDUQ offered free and essentially unrestricted time to qualified candidates for the offices of U.S. House Districts 14 & 18 and the U.S. Senate for Pennsylvania. This offer was made in the spirit of Section 312 (a)(7) of the Federal Communications Act of 1934, which requires that Federal candidates be given "reasonable access" to broadcast stations during the sixty days before the general election. We felt an effort to permit political candidates to speak on our station without restriction was a risky but worthy undertaking.

One person requesting such free political time was Bill White, a self-described independent candidate for U.S. Senate. After a careful analysis of the legitimacy of his campaign (including reservations about the status of his required "public announcement" of candidacy and his required "substantial showing" of campaign legitimacy), it was decided to extend the offer to Mr. White. Our good-faith response to his request for airtime has been answered with the complaint filed by Mr. White with the Federal Election Commission in November.

What follows is a paragraph-by-paragraph response (where response is warranted) to Mr. White's FEC complaint.

Mr. White's assertions in Paragraph 1 are inaccurate; there was no distribution of (nor was there any attempt to distribute) WDUQ's unedited interview with U.S. Senate candidate Lynn Yeakel. As with all uses, this use was limited to WDUQ's airwaves, and it was only one of sixty uses of free and unrestricted airtime of WDUQ by nine Federal candidates. In filing his complaint Mr. White chose to omit the fact that he too was scheduled to be interviewed by Mr. Gavin in a political use of WDUQ, scheduled for Monday, November 2, 1992 (to be broadcast in a fashion IDENTICAL to the use of Ms. Yeakel), and that he himself requested a change in that schedule.



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On Friday, October 30, he called WDUQ's Program Director, David Becker, to inform Mr. Becker that he did not wish to be interviewed by Mr. Gavin; his use ultimately took the form of a call-in program engineered by Mr. Becker, which aired as scheduled on November 2. The refusal of Mr. Gavin's time was entirely the decision and the responsibility of Mr. White, and thoroughly discredits his claim of an in-kind contribution to the Yeakel campaign.

Paragraphs 3 and 4 further attempt to establish the political use of Ms. Yeakel, broadcast on Friday, October 30, 1992, as an in-kind provision of goods and services to the Yeakel campaign--again, an inaccurate assessment in light of the events described above. A letter sent to all qualified candidates (including Mr. White) listed a series of five options describing possible formats for political uses on WDUQ. The broadcast in question featuring Ms. Yeakel followed the second of the five options, namely the broadcast of an unedited interview with a member of WDUQ's News Department as a political use. Mr. Gavin's voice and talent, as an element of the station's facilities, were made available to all candidates as requested for their uses on an equal basis. All candidates chose options suiting their needs (including four candidates besides Ms. Yeakel who requested unedited interviews with Mr. Gavin). Only Mr. White, as detailed in the preceding paragraph, specifically declined the opportunity to be interviewed by Mr. Gavin.

In paragraph 5, Mr. White cites Mr. Gavin's vehement opposition to the extension of an offer of free time to Mr. White as a Federal candidate, incorrectly implying a connection between this opposition and the political use by Ms. Yeakel. While Mr. Gavin's initial opinion (actively sought by Mr. Becker as a part of the process of evaluating candidates) was that Mr. White was not a legally qualified candidate, Mr. Gavin was entirely cooperative in carrying out duties relating to all political uses of WDUQ by qualified candidates once Mr. White was determined to be qualified. Mr. White's use of the term "vehement" in describing Mr. Gavin's opposition is pejorative and a matter of opinion, and as Mr. Gavin was not the final arbiter in determining qualified candidates it is entirely irrelevant to the point at hand.

Additionally, Mr. White inaccurately paraphrases the political disclaimer broadcast by WDUQ before and following the political use by Ms. Yeakel. He erroneously claims we disavowed any responsibility for the program's content; it

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was in fact stated that the views expressed were those of Mr. Yeakel and that they did not necessarily represent those of anyone on the staff or management of WDUQ--the same standard disclaimer read before and after all political uses of WDUQ's airwaves by Mr. White and all other Federal candidates.

Mr. White's assertion of Mr. Gavin's refusal to make mention of him in news programming will be addressed shortly.

Paragraphs 6 & 7 refer to broadcasts of the Western Pennsylvania Citizens Jury, a project of the Jefferson Center of Minneapolis sponsored by the Pennsylvania League of Women Voters. Mr. White inaccurately describes as "a purely partisan activity" this project of a well-known nonpartisan organization. Mr. White was not invited to participate in these hearings; as a means of making the project manageable in scope and size, the Citizens Jury set as a minimum standard for candidates a 10% standing in any of numerous political polls--a level of which Mr. White fell well short. WDUQ's coverage did not alter these proceedings in any way, shape or form, and WDUQ had no say in determining how these proceedings were devised or carried out.

Mr. White acknowledges our position on these broadcasts--that we consider these hearings to have been spot news in the form of debate coverage, aired with the good faith intention of informing the public (and hence by Federal law exempt from equal time requirements). It is worth adding that two other Pittsburgh broadcast facilities, WTAE-TV and WTAE-AM, broadcast highlights of these hearings as spot news as well.

Paragraph 8 inaccurately cites what Mr. White describes as Mr. Gavin's "refusal" to make mention of the White campaign. Beyond a self-described public declaration of his write-in candidacy, the self-professed establishment of a campaign office at his home, and his forty-nine political broadcasts on WDUQ, Mr. White exhibited no traditional elements of newsworthiness in his campaign, such as scheduled campaign stops and tours, speeches, or press releases. Rather than reflecting Mr. Gavin's "refusal" of news coverage, Mr. White's lack of campaign coverage on WDUQ (and every other media outlet in Pennsylvania, for that matter) reflects his lack of effort, skill, and experience in this aspect of campaigning.

Mr. White, in this complaint, appears to demand personal coverage of an all-but-nonexistent campaign. Were such coverage to be enacted, it could easily be construed as favoritism. Mr. White's misunderstanding of the role news broadcasts play in keeping the public informed appears to lead him to assert that news coverage should somehow be subject to Federal law governing political broadcasts--an ill-reasoned and potentially dangerous notion.

During this offer of free access to Federal candidates, WDUQ broadcast sixty political uses totalling ten hours and thirty-nine minutes of air time during the 1992 campaign. Forty-nine of those uses and three hours and thirty-one minutes of this time were taken by Bill White--time offered on the same terms to all other Federal candidates, including Mr. White's opponents. Mr. White clearly had the lion's share of political uses and air time during WDUQ's political broadcast offer. The lion's share of distortions and inaccuracies and the wasting of valuable time, energy, and taxpayer dollars are his also. In filing this complaint against WDUQ, Mr. White bites the one hand that fed him fairly, equally, and in good faith.

Signed Judy D. Jankowski

Judy D. Jankowski
General Manager, WDUQ-FM

Date December 1, 1992

Subscribed and sworn to before me on this 1st day of
December, 1992

William A. Crawford
Notary Public
My Comm. Expires Aug 14, 1993

(SEAL)

OBERMAYER, REBHANN, MAXWELL & HIPPEL

PACKARD BUILDING - 15TH FLOOR
S.E. CORNER 15TH AND CHESTNUT STREETS
PHILADELPHIA, PA. 19102-2680

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SEYMOUR H. GRIFFING
ROBERT I. WHITELAW***
E. CURRY WARRER
JAMES H. PENNY, JR.
H. CRAIG LEWIS
THOMAS E. HALL, JR.**
WARREN H. AYRES
CHARLES R. GOLDEN
THOMAS A. LEONARD
LOUIS E. KUPFERMAN
JOSEPH P. SCHUBERT
PAUL S. DIAMOND
ANN S. VERBER***
JEFFREY S. SATOFF**
SCOTT E. DEHNAN
VICTOR ALAN YOUNG
CATHERINE E. MYERS
CHARLES E. R. SCUDDER
MICHAEL E. RICHMAN
RUTH RICHARD WESSEL
DAVID R. FRIEDMAN
RICHARD R. LINDBERG
WILLIAM J. LEONARD
J. ROBERT STOLTSFUS
J. BRIE KATHLEEN
BETH GILSON FRIEDER
JAMES R. THOMPSON**
JONATHAN H. HERNAN***
ELIZABETH A. LLOYD
ROBERT R. CAMERON**
JOHN H. THARA*
S. MADELINE MILLER*
JOHN S. GORDON**
KURTIS BELTZ**
KATHERINE V. RUMY*

PAUL C. HEWITT
RICHARD C. SUTHERLAND
ROBERT A. MACDONELL
JOSEPH S. ROTWITZ
GREGORY S. SARUTELLI*
ROBERT L. OLIVER JR.
JOHN J. SHUMWAY JR.
DAVID A. LINDEN
JAMES H. BAUMGARD
STEPHEN S. SCHWARTZ
JOSEPH J. HOSOVER***
JULIUS H. STEINER
LAWRENCE J. TABAS
DOUGLAS A. CROCKETT
W. ATLAS DAVIS, III***
PAUL H. ALLEN
ANASTASIOS SPYTHAGORAS*
JEROME S. SATOFF
ALAN WEINBERG
LARRY SCHWARTZ
MICHAEL P. WENSTER**
JOHN E. RYAN
MARJORIE H. GORDON
ROBERT L. BLUM
JACQUELINE T. SHULMAN**
EDWARD H. GEORGE*
ELIZABETH S. SHWARTZ*
MICHAEL FOSBUEBER*
THOMAS R. WILCOX*
STEVEN A. HAGER*
DENNIS H. CARLSON*
JOEL R. SCHWACH***
SUSAN H. SYDORIN**
CATHERINE C. FLYNN*
JULIE A. WILLIAMSON*

December 15, 1992

- * ALSO MEMBER OF NEW JERSEY BAR
- ** ALSO MEMBER OF OHIO BAR
- *** ALSO MEMBER OF S.C. BAR
- **** ALSO MEMBER OF N.J. BAR AND S.C. BAR
- ***** ALSO MEMBER OF N.J. & FLORIDA BAR
- ***** ALSO MEMBER S.C. AND MASSACHUSETTS BAR

VIA FEDERAL EXPRESS

Craig D. Reffner, Esquire
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: Matters Under Review 3706, 3713, and 3714

Dear Mr. Reffner:

As we have discussed, on behalf of Citizens for Arlen Specter ("CAS"), I am submitting this letter response to the "complaints" filed in the above-captioned Matters Under Review. I have also included designation of counsel forms for each matter.

CAS believes that these complaints are frivolous and, indeed, abusive. In all three matters, William White -- apparently an unsuccessful senatorial candidate -- raises the same legal "issue": whether the coverage and participation of the media, the press, and citizens groups respecting Pennsylvania's 1992 Senatorial Election somehow constituted prohibited "in-kind" contributions under the

Attachment 11
1012

96043724803

TO: Craig D. Reffner, Esquire
December 1, 1992
Page 2

Federal Election Code. The Federal Election Commission ("the Commission") must reject this plainly frivolous contention, as it would grossly impair constitutionally protected activity. To the extent that CAS is obligated to respond further to each MUR, it incorporates its response in MUR 3710, a copy of which I have included for your convenience. In sum, the Commission should dismiss each matter as to CAS for the following reasons:

MUR 3706. White directs this complaint against Lynn Yeakel, radio station WDUQ, and News Director Kevin Gavin, not CAS. Nonetheless, White gratuitously complains that WDUQ's coverage of Senator Specter's presentations to the League of Women Voters' Citizens Jury constituted a "prohibited" contribution. This is, of course, nonsense. The Commission's regulations explicitly provide that the costs incurred in such news coverage are neither "contributions" nor "expenditures" within the meaning of the Federal Election Campaign Act. 11 CFR §§100.7(b)(2), 100.8(b)(2). See U.S.C. §431(9)(B).

MUR 3713. Once again, White directs this complaint not against CAS, but against the Pittsburgh Post-Gazette and the League of Women Voters. Nonetheless, White gratuitously suggests that an election guide provided by both respondents and the Post-Gazette's coverage of the senatorial campaign constituted prohibited "in-kind" contributions to CAS. Once again, the law explicitly provides exactly the opposite. 11 CFR §§100.7(b)(2), 100.8(b)(2). See U.S.C. §431(a)(B).

MUR 3714. Finally, White alleges that the production, distribution, and coverage of the debate between Senator Specter and Ms. Yeakel constituted a prohibited "in-kind" contribution. Again, the law provides exactly the opposite. 11 CFR §§100.7(b)(2), 100.8(b)(2). See §431(a)(B).

In sum, CAS reiterates that these "complaints," insofar as they are directed against CAS, are frivolous and abusive. It is manifest that the actions complained of are constitutionally protected discussion and debate respecting the Senatorial Election. See generally Bemis Pentecostal Church v. State of Tennessee, 731 S.W.2d 897, 905 (Tenn. 1987). Accordingly, the Commission should dismiss all the complaints as to CAS.

Respectfully,

Paul S. Diamond

Paul S. Diamond

PSD:mem

AYRES, AYRES & FLEMING
ATTORNEYS AT LAW
CENTRAL PARK LAW BUILDING
132 GAZEBO PARK, SUITE 178
JOHNSTOWN, PENNSYLVANIA 15901-1889

JOHN M. R. AYRES
TIMOTHY M. AYRES
LINDA ROYDER FLEMING

PHONE (814) 535-8646
FAX (814) 535-4251

March 13, 1995

MARY L TAKSAR ESQUIRE
CENTRAL ENFORCEMENT DOCKET
FEDERAL ELECTION COMMISSION
999 E STREET NW
WASHINGTON DC 20463

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
MAR 20 12 26 PM '95

RE: Operation Assistance, Inc.
Complaint by Willeam A. Choby
MUR 4188

Dear Attorney Taksar:

We are general counsel for Operation Assistance, Inc. of Boswell, Pennsylvania. We enclose herewith the Statement of Designation of Counsel for your records.

Operation Assistance, Inc. was named by Willeam A. Choby in his Complaint to you received by your office on February 21, 1995. It appears from reviewing the Complaint that Mr. Choby is upset that Congressman John P. Murtha, (D-PA), was named in a news story about Operation Assistance, Inc. in the July 1994 issue of Central PA Medicine, at pages 14-15. The publishers of this magazine highlighted Operation Assistance, Inc. in this issue because it is a new company, organized in the summer of 1994, and it appeared to the publishers to be a newsworthy article for the subscribers of its magazine. In one paragraph appearing on page 15 of the article, the publishers obtained the statement of the Congressman serving the district in which Operation Assistance, Inc. is located. Congressman Murtha stated "What I think about this is not only do you provide security, but you also provide jobs for handicapped people. That's good to hear." Together with Congressman Murtha's quote, there appears a photograph of Congressman Murtha on page 14 of the article.

We have been informed by our client that the substance of the article, and the decision to print the quote by Congressman Murtha and run his photograph in connection with the article, was in no way under the control of Operation Assistance, Inc. This decision was made entirely by Central PA Medicine publishers and our client was not even consulted about the subject matter. Obviously, it was a great endorsement for this fledgling company to have such a glowing endorsement by the district's long-term Congressman. However, Operation Assistance, Inc. had nothing to do with Congressman Murtha's comments nor was this in any way an endorsement for his re-election bid.

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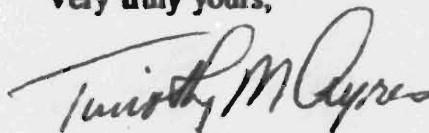
Mary L. Taksar, Esquire
Page 2
March 13, 1995

Whether or not the publishers of Central PA Medicine had in mind an endorsement of Congressman Murtha is outside of our knowledge. Operation Assistance, Inc. did not pay for this article nor did it pay Congressman Murtha for the endorsement. There was no payment at all to Congressman Murtha for his re-election.

We respectfully request that your office dismiss the Complaint as it relates to our client, Operation Assistance, Inc. If your office believes that any further information is necessary in order to acquit this corporation of any wrongdoing, please let me know immediately and we will endeavor to obtain the information requested.

Please know that our client takes this Complaint seriously and has advised us to do whatever is necessary to comply with your requests in your investigation.

Very truly yours,



Timothy M. Ayres

TMA/ms
29475/18

cc: Mr. Newell L. Smith

06043724806

STATEMENT OF DESIGNATION OF COUNSEL

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
MAR 20 12 25 PM '95

NR 4188

NAME OF COUNSEL: Timothy M. Ayres

ADDRESS: Ayres, Ayres & Fleming
132 Gazebo Park

Johnstown, PA 15901

TELEPHONE: 814-535-8646

The above-named individual is hereby designated as my
counsel and is authorized to receive any notifications and other
communications from the Commission and to act on my behalf before
the Commission.

March 13, 1994
Date

[Signature]
Signature

RESPONDENT'S NAME: Operation Assistance, Inc.

ADDRESS: 325 Stonycreek Street

Boswell, PA 15531

HOME PHONE: _____

BUSINESS PHONE: 814-629-7140

96043724807

BEFORE THE FEDERAL ELECTION COMMISSION

FEB 6 12 10 PM '96

In the Matter of

)
) Enforcement Priority
)

SENSITIVE

GENERAL COUNSEL'S REPORT

I. INTRODUCTION

This report is the General Counsel's Report to recommend that the Commission no longer pursue the identified lower priority and stale cases under the Enforcement Priority System.

II. CASES RECOMMENDED FOR CLOSING

A. Cases Not Warranting Further Pursuit Relative to Other Cases Pending Before the Commission

A critical component of the Priority System is identifying those pending cases that do not warrant the further expenditure of resources. Each incoming matter is evaluated using Commission-approved criteria and cases that, based on their rating, do not warrant pursuit relative to other pending cases are placed in this category. By closing such cases, the Commission is able to use its limited resources to focus on more important cases.

Having evaluated incoming matters, this Office has identified 10 cases which do not warrant further pursuit relative to the other pending cases.¹ A short description of each case and the factors leading to assignment of a relatively

1. These matters are: MUR 4165 (Attachment 2); MUR 4187 (Attachment 3); MUR 4188 (Attachment 4); MUR 4199 (Attachment 5); MUR 4211 (Attachment 6); MUR 4212 (Attachment 7); MUR 4216 (Attachment 8); MUR 4224 (Attachment 9); MUR 4243 (Attachment 10); MUR 4245 (Attachment 11).

96043724808

low priority and consequent recommendation not to pursue each case is attached to this report. See Attachments 2-11. As the Commission requested, this Office has attached the responses to the complaints for the externally-generated matters and the referrals for matters referred by the Reports Analysis Division in instances where this information was not previously circulated. See Attachments 2-11.

B. Stale Cases

Investigations are severely impeded and require relatively more resources when the activity and evidence are old. Consequently, the Office of General Counsel recommends that the Commission focus its efforts on cases involving more recent activity. Such efforts will also generate more impact on the current electoral process and are a more efficient allocation of our limited resources. To this end, this Office has identified 33 cases that

do not
warrant further investment of significant Commission resources.²

2. These matters are: PM 308 (Attachment 12); RAD 94L-29 (Attachment 13); RAD 94L-34 (Attachment 14); RAD 94NF-10 (Attachment 15); RAD 94NF-13 (Attachment 16); MUR 4027 (Attachment 17); MUR 4028 (Attachment 18); MUR 4033 (Attachment 19); MUR 4042 (Attachment 20); MUR 4045 (Attachment 21); MUR 4047 (Attachment 22); MUR 4049 (Attachment 23); MUR 4057 (Attachment 24); MUR 4059 (Attachment 25); MUR 4062 (Attachment 26); MUR 4065 (Attachment 27); MUR 4066 (Attachment 28); MUR 4067 (Attachment 29); MUR 4069 (Attachment 30); MUR 4070 (Attachment 31); MUR 4077 (Attachment 32); MUR 4079 (Attachment 33); MUR 4086 (Attachment 34); MUR 4089 (Attachment 35); MUR 4095 (Attachment 36); MUR 4099 (Attachment 37); MUR 4102 (Attachment 38); MUR 4104 (Attachment 39); MUR 4111 (Attachment 40); MUR 4113 (Attachment 41); MUR 4117 (Attachment 42); MUR 4127 (Attachment 43); and MUR 4132 (Attachment 44).

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Since the recommendation not to pursue the identified cases is based on staleness, this Office has not prepared separate narratives for these cases. As the Commission requested, the responses to the complaints for the externally-generated matters and the referrals for the internally-generated matters are attached to the report in instances where this information was not previously circulated. See Attachments 12-44.

This Office recommends that the Commission exercise its prosecutorial discretion and no longer pursue the cases listed below in Section III.A and III.B effective February 13, 1996. By closing the cases effective February 13, 1996, CED and the Legal Review Team will respectively have the additional time necessary for preparing the closing letters and the case files for the public record.

III. RECOMMENDATIONS

A. Decline to open a MUR and close the file effective February 13, 1996 in the following matters:

- 1) PM 308
- 2) RAD 94L-29
- 3) RAD 94L-34
- 4) RAD 94NF-10
- 5) RAD 94NF-13

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B. Take no action, close the file effective February 13, 1996, and approve the appropriate letter in the following matters:

- 1) MUR 4027
- 2) MUR 4028
- 3) MUR 4033
- 4) MUR 4042
- 5) MUR 4045
- 6) MUR 4047
- 7) MUR 4049
- 8) MUR 4057
- 9) MUR 4059
- 10) MUR 4062
- 11) MUR 4065
- 12) MUR 4066
- 13) MUR 4067
- 14) MUR 4069
- 15) MUR 4070
- 16) MUR 4077
- 17) MUR 4079
- 18) MUR 4086
- 19) MUR 4089
- 20) MUR 4095
- 21) MUR 4099
- 22) MUR 4102
- 23) MUR 4104
- 24) MUR 4111
- 25) MUR 4113
- 26) MUR 4117
- 27) MUR 4127
- 28) MUR 4132
- 29) MUR 4165
- 30) MUR 4187
- 31) MUR 4188
- 32) MUR 4199
- 33) MUR 4211
- 34) MUR 4212
- 35) MUR 4216
- 36) MUR 4224
- 37) MUR 4243
- 38) MUR 4245

Date

2/6/96

Lawrence M. Noble
General Counsel

9 6 0 4 3 7 2 4 8 1 2

In the Matter of)
) Agenda Document #X96-13
Enforcement Priority)

CORRECTED CERTIFICATION

I, Marjorie W. Emons, recording secretary for the Federal Election Commission, do hereby certify that the Commission decided by votes of 4-0 to take the following action in the above-captioned matter:

- A. Decline to open a MUR and close the file effective March 5, 1996, in the following matters:

- 1) FM 308
- 2) RAD 94L-29
- 3) RAD 94L-34
- 4) RAD 94NF-10
- 5) RAD 94NF-13

- B. Take no action, close the file effective March 5, 1996, and approve appropriate letter in the following matters:**

- 1) MUR 4027
- 2) MUR 4028
- 3) MUR 4033
- 4) MUR 4042
- 5) MUR 4045
- 6) IMUR 4047
- 7) IMUR 4049
- 8) IMUR 4057
- 9) IMUR 4059

(continued)

Federal Election Commission
Certification: Enforcement Priority
March 6, 1996

Page 3

10) NUR 4062
11) NUR 4065
12) NUR 4066
13) NUR 4067
14) NUR 4069
15) NUR 4070
16) NUR 4077
17) NUR 4079
18) NUR 4086
19) NUR 4089
20) NUR 4095
21) NUR 4099
22) NUR 4102
23) NUR 4104
24) NUR 4111
25) NUR 4113
26) NUR 4117
27) NUR 4127
28) NUR 4132
29) NUR 4165
30) NUR 4187
31) NUR 4188
32) NUR 4199
33) NUR 4211
34) NUR 4212
35) NUR 4216
36) NUR 4224
37) NUR 4243
38) NUR 4245

(continued)

96043724813

Federal Election Commission
Certification: Enforcement Priority
March 5, 1996

Page 3

Commissioners Aikens, Elliott, McDonald, and Thomas
voted affirmatively on the above-noted decisions.
Commissioner McGarry was not present.

Attest:

3/7/96
Date

Marjorie W. Emmons
Marjorie W. Emmons
Secretary of the Commission

96043724814



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 7, 1996

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

William A. Choby, DMD
1905 Bates Drive
Johnston PA 15905

RE: MUR 4188

Dear Mr. Choby:

On February 21, 1995, the Federal Election Commission received your complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended ("the Act").

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no action against the respondents. See attached narrative. Accordingly, the Commission closed its file in this matter on March 5, 1996. This matter will become part of the public record within 30 days.

The Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

Sincerely,

Mary L. Taksar (428)

Mary L. Taksar, Attorney
Central Enforcement Docket

Attachment
Narrative

96043724815

MUR 4188

CENTRAL PENNSYLVANIA MEDICINE

Dr. Willeam A. Choby filed a complaint alleging that two monthly trade publications, Central Pennsylvania Medicine and Western Pennsylvania Medicine, made an in-kind corporate contribution to the Murtha for Congress Committee because the publications printed an article about Operation Assistance, Inc. which included a photograph of Congressman Murtha and a quote in which Congressman Murtha praised the company's commitment to the disabled. The complainant alleges that the photograph in the article is a subtle promotion of Congressman Murtha by Ankney Publishing Company, the photograph was Congressman Murtha's endorsement of a private corporation while he was a candidate for re-election, and the photograph was a corporate endorsement of Congressman Murtha by Operation Assistance, Inc.

Raymond Ankney, managing editor of Western Pennsylvania Medicine, responds that the company has never received any payment from Congressman Murtha or his Committee for advertising or other services. Mr. Ankney explains that a feature story on Operation Assistance, Inc. ran in the July issue of Central Pennsylvania Medicine. He states that Congressman Murtha attended the company's groundbreaking and was quoted in the story. According to Mr. Ankney, when he went to the photo file, there were pictures for two of the three people quoted in the story, Mr. Newell Smith and Congressman Murtha. Mr. Ankney indicates that the picture of Mr. Smith was too blurry to use and that in the newspaper business, the person whose picture is in the file is whose picture is used and consequently, it is not a political statement or in-kind contribution.

The Murtha for Congress Committee indicates that the Committee took no action to cause the photograph to appear in Central Pennsylvania Medicine and that the photographs of the Congressman are made available to any individual or periodical that requests a picture. The Committee also states that it made no arrangements whatsoever with Ankney Publishing, Inc. or Operation Assistance to obtain favorable news coverage of Congressman Murtha.

Operation Assistance, Inc.'s response asserts that it exercised no control over the substance of the article or the decision to quote Congressman Murtha and run his photograph in connection with the article. Operation Assistance, Inc. states that it did not pay for the article, it did not pay Congressman Murtha for the endorsement, and it did not make any payments to benefit Congressman Murtha's re-election.

This matter is less significant relative to other matters pending before the Commission.

96043724816



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 7, 1996

Gregory M. Harvey
MORGAN, LEWIS, BOCKIUS
2000 One Logan Square
Philadelphia, PA 19103

RE: MUR 4188
Murtha for Congress Committee and Robert C. Ondick, Treasurer

Dear Mr. Harvey:

On February 28, 1995, the Federal Election Commission notified your clients Murtha for Congress Committee and Robert C. Ondick, as treasurer, of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no action against your clients. See attached narrative. Accordingly, the Commission closed its file in this matter on March 5, 1996.

The confidentiality provisions of 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record prior to receipt of your additional materials, any permissible submissions will be added to the public record when received.

96043724817

Page 2

Murtha for Congress Committee and Robert C. Ondick, Treasurer

If you have any questions, please contact the Alva E. Smith at (202) 219-3400.

Sincerely

Mary L. Taksar (428)

Mary L. Taksar, Attorney
Central Enforcement Docket

Attachment
Narrative

96043724818

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NUR 4188

CENTRAL PENNSYLVANIA MEDICINE

Dr. Willeam A. Choby filed a complaint alleging that two monthly trade publications, Central Pennsylvania Medicine and Western Pennsylvania Medicine, made an in-kind corporate contribution to the Murtha for Congress Committee because the publications printed an article about Operation Assistance, Inc. which included a photograph of Congressman Murtha and a quote in which Congressman Murtha praised the company's commitment to the disabled. The complainant alleges that the photograph in the article is a subtle promotion of Congressman Murtha by Ankney Publishing Company, the photograph was Congressman Murtha's endorsement of a private corporation while he was a candidate for re-election, and the photograph was a corporate endorsement of Congressman Murtha by Operation Assistance, Inc.

Raymond Ankney, managing editor of Western Pennsylvania Medicine, responds that the company has never received any payment from Congressman Murtha or his Committee for advertising or other services. Mr. Ankney explains that a feature story on Operation Assistance, Inc. ran in the July issue of Central Pennsylvania Medicine. He states that Congressman Murtha attended the company's groundbreaking and was quoted in the story. According to Mr. Ankney, when he went to the photo file, there were pictures for two of the three people quoted in the story, Mr. Newell Smith and Congressman Murtha. Mr. Ankney indicates that the picture of Mr. Smith was too blurry to use and that in the newspaper business, the person whose picture is in the file is whose picture is used and consequently, it is not a political statement or in-kind contribution.

The Murtha for Congress Committee indicates that the Committee took no action to cause the photograph to appear in Central Pennsylvania Medicine and that the photographs of the Congressman are made available to any individual or periodical that requests a picture. The Committee also states that it made no arrangements whatsoever with Ankney Publishing, Inc. or Operation Assistance to obtain favorable news coverage of Congressman Murtha.

Operation Assistance, Inc.'s response asserts that it exercised no control over the substance of the article or the decision to quote Congressman Murtha and run his photograph in connection with the article. Operation Assistance, Inc. states that it did not pay for the article, it did not pay Congressman Murtha for the endorsement, and it did not make any payments to benefit Congressman Murtha's re-election.

This matter is less significant relative to other matters pending before the Commission.



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 7, 1996

**Raymond Ankney, CEO
Ankney Publishing, Inc.
127 Arlington
Johnstown, PA 15905**

**RE: MUR 4188
Ankney Publishing, Inc.; Central Pennsylvania Medicine; Western Pennsylvania
Medicine; and Ankney Public Relations**

Dear Mr. Ankney:

On February 28, 1995, the Federal Election Commission notified you of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no action against Ankney Publishing, Inc.; Central Pennsylvania Medicine; Western Pennsylvania Medicine; and Ankney Public Relations. See attached narrative. Accordingly, the Commission closed its file in this matter on March 5, 1996.

The confidentiality provisions of 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record prior to receipt of your additional materials, any permissible submissions will be added to the public record when received.

Celebrating the Commission's 20th Anniversary

**YESTERDAY, TODAY AND TOMORROW
DEDICATED TO KEEPING THE PUBLIC INFORMED**

96043724820

Page 2

Ankney Publishing, Inc.; Central Pennsylvania Medicine; Western Pennsylvania Medicine; and Ankney Public Relations

If you have any questions, please contact the Alva E. Smith at (202) 219-3400.

Sincerely

Mary L. Taksar (428)

Mary L. Taksar, Attorney
Central Enforcement Docket

Attachment
Narrative

96043724821

CENTRAL PENNSYLVANIA MEDICINE

Dr. Willeam A. Choby filed a complaint alleging that two monthly trade publications, Central Pennsylvania Medicine and Western Pennsylvania Medicine, made an in-kind corporate contribution to the Murtha for Congress Committee because the publications printed an article about Operation Assistance, Inc. which included a photograph of Congressman Murtha and a quote in which Congressman Murtha praised the company's commitment to the disabled. The complainant alleges that the photograph in the article is a subtle promotion of Congressman Murtha by Ankney Publishing Company, the photograph was Congressman Murtha's endorsement of a private corporation while he was a candidate for re-election, and the photograph was a corporate endorsement of Congressman Murtha by Operation Assistance, Inc.

Raymond Ankney, managing editor of Western Pennsylvania Medicine, responds that the company has never received any payment from Congressman Murtha or his Committee for advertising or other services. Mr. Ankney explains that a feature story on Operation Assistance, Inc. ran in the July issue of Central Pennsylvania Medicine. He states that Congressman Murtha attended the company's groundbreaking and was quoted in the story. According to Mr. Ankney, when he went to the photo file, there were pictures for two of the three people quoted in the story, Mr. Newell Smith and Congressman Murtha. Mr. Ankney indicates that the picture of Mr. Smith was too blurry to use and that in the newspaper business, the person whose picture is in the file is whose picture is used and consequently, it is not a political statement or in-kind contribution.

The Murtha for Congress Committee indicates that the Committee took no action to cause the photograph to appear in Central Pennsylvania Medicine and that the photographs of the Congressman are made available to any individual or periodical that requests a picture. The Committee also states that it made no arrangements whatsoever with Ankney Publishing, Inc. or Operation Assistance to obtain favorable news coverage of Congressman Murtha.

Operation Assistance, Inc.'s response asserts that it exercised no control over the substance of the article or the decision to quote Congressman Murtha and run his photograph in connection with the article. Operation Assistance, Inc. states that it did not pay for the article, it did not pay Congressman Murtha for the endorsement, and it did not make any payments to benefit Congressman Murtha's re-election.

This matter is less significant relative to other matters pending before the Commission.

96043724822



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 7, 1996

Timothy M. Ayres
AYRES, AYRES & FLEMING
132 Gazebo Park
Johnstown, PA 15901

RE: MUR 4188
Operation Assistance, Inc.

Dear Mr. Ayres:

On February 28, 1995, the Federal Election Commission notified your client, Operation Assistance, Inc., of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no action against your client. See attached narrative. Accordingly, the Commission closed its file in this matter on March 5, 1996.

The confidentiality provisions of 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record prior to receipt of your additional materials, any permissible submissions will be added to the public record when received.

96043724823

Page 2
Operation Assistance, Inc.

If you have any questions, please contact the Alva E. Smith at (202) 219-3400.

Sincerely

Mary L. Taksar (HES)

Mary L. Taksar, Attorney
Central Enforcement Docket

Attachment
Narrative

96043724824

MUR 4188

CENTRAL PENNSYLVANIA MEDICINE

Dr. Willeam A. Choby filed a complaint alleging that two monthly trade publications, Central Pennsylvania Medicine and Western Pennsylvania Medicine, made an in-kind corporate contribution to the Murtha for Congress Committee because the publications printed an article about Operation Assistance, Inc. which included a photograph of Congressman Murtha and a quote in which Congressman Murtha praised the company's commitment to the disabled. The complainant alleges that the photograph in the article is a subtle promotion of Congressman Murtha by Ankney Publishing Company, the photograph was Congressman Murtha's endorsement of a private corporation while he was a candidate for re-election, and the photograph was a corporate endorsement of Congressman Murtha by Operation Assistance, Inc.

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This matter is less significant relative to other matters pending before the Commission.

9 6 0 4 3 7 2 4 8 2 5



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 4188

DATE FILMED 3/19/96 CAMERA NO. 2

CAMERAMAN SES

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